
SOCIAL SECURITY AMENDMENTS OF 1981

DECEMBER 14, 1981.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4331]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4331) to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

INTERFUND BORROWING

SECTION 1. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(1) If at any time prior to January 1983 the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from the other such Trust Fund, or from the Federal Hospital Insurance Trust Fund established under section 1817, for transfer to and deposit in the Trust Fund whose need for financing is involved.

“(2) In any case where a loan has been made to a Trust Fund under paragraph (1), there shall be transferred from time to time, from the borrowing Trust Fund to the lending Trust Fund, interest with respect to the unrepaid balance of such loan at a rate equal to

the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (d).

“(3) If in any month after a loan has been made to a Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate.

“(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection.”

(b) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

“(j)(1) If at any time prior to January 1983 the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Hospital Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from either the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund for transfer to and deposit in the Federal Hospital Insurance Trust Fund.

“(2) In any case where a loan has been made to the Federal Hospital Insurance Trust Fund under paragraph (1), there shall be transferred from time to time, from such Trust Fund to the lending Trust Fund, interest with respect to the unrepaid balance of such loan at a rate equal to the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (c).

“(3) If in any month after a loan has been made to the Federal Hospital Insurance Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate.

“(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection.”

(c) The amendments made by this section shall be effective on the date of the enactment of this Act.

CONTINUATION OF MINIMUM BENEFITS FOR EXISTING BENEFICIARIES

SEC. 2. (a)(1) Section 215(a)(5) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended—

(A) in the first sentence, by striking out “, and the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)”;

(B) in the last sentence, by striking out “, modified by the application of paragraph (6),”.

(2) Section 215(a)(6)(A) of the Social Security Act (as added by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out “The table of benefits” and all that follows down through “shall be extended” and inserting in lieu thereof the following “In applying the table of benefits in effect in December 1978 under this section for purposes of the last sentence of para-

graph (4), such table, revised as provided by subsection (i), as applicable, shall be extended”.

(b) Section 215(f)(7) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended—

(1) by striking out the period at the end of the second sentence and inserting in lieu thereof “, and (effective January 1982) the recomputation shall be modified by the application of subsection (a)(6) where applicable.”; and

(2) by striking out the last sentence.

(c) Section 215(i)(2)(A)(iii), of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by inserting after “this title” the following: “and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I) in the case of an individual to whom that subsection (as in effect in December 1981) applied, subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph (as then in effect)”.

(d) Section 215(i)(4) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by striking out “, modified by the application of subsection (a)(6),” each place it appears.

(e) Section 202(q) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended—

(1) in paragraph (4), by striking out “changed” and “change” each place they appear and inserting in lieu thereof “increased” and “increase”, respectively; and

(2) in paragraph (10), by striking out “changed”, “change”, and “changes” each place they appear and inserting in lieu thereof “increased”, “increase”, and “increases”, respectively.

(f) Section 203(a)(8) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by striking out “, modified by the application of section 215(a)(6),”.

(g) Section 217(b)(1) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by striking out “, and as modified by the application of section 215(a)(6),”.

(h) Section 1622 of the Social Security Act (as added by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is repealed.

(i) Subsection (e) of section 2201 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(j)(1) Subsection (h) of section 2201 of the Omnibus Budget Reconciliation Act of 1981 is repealed, effective September 1, 1981.

(2) Except as provided in paragraphs (3) and (4), the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981 (other than subsection (f) thereof), together with the amendments made by the preceding subsections of this section, shall apply with respect to benefits for months after December 1981; and the amendment made by subsection (f) of such section 2201 shall apply with respect to deaths occurring after December 1981.

(3) Such amendments shall not apply—

(A) in the case of an old-age insurance benefit, if the individual who is entitled to such benefit first became eligible (as de-

fined in section 215(a)(3)(B) of the Social Security Act) for such benefit before January 1982,

(B) in the case of a disability insurance benefit, if the individual who is entitled to such benefit first became eligible (as so defined) for such benefit before January 1982, or attained age 62 before January 1982,

(C) in the case of a wife's or husband's insurance benefit, or a child's insurance benefit based on the wages and self-employment income of a living individual, if the individual on whose wages and self-employment income such benefit is based is entitled to an old-age or disability insurance benefit with respect to which such amendments do not apply, or

(D) in the case of a survivors insurance benefit, if the individual on whose wages and self-employment income such benefit is based died before January 1982, or dies in or after January 1982 and at the time of his death is eligible (as so defined) for an old-age or disability insurance benefit with respect to which such amendments do not apply.

(4) In the case of an individual who is a member of a religious order (within the meaning of section 3121(r)(2) of the Internal Revenue Code of 1954), or an autonomous subdivision of such order, whose members are required to take a vow of poverty, and which order or subdivision elected coverage under title II of the Social Security Act before the date of the enactment of this Act, or who would be such a member except that such individual is considered retired because of old age or total disability, paragraphs (2) and (3) shall apply, except that each reference therein to "December 1981" or "January 1982" shall be considered a reference to "December 1991" or "January 1992", respectively.

EXTENSION OF COVERAGE TO FIRST SIX MONTHS OF SICK PAY

SEC. 3. (a) Clause (2) of section 209(b) of the Social Security Act is amended by inserting immediately after "sickness or accident disability" the following: "(but, in the case of payments made to an employee or any of his dependents, this clause shall exclude from the term 'wages' only payments which are received under a workmen's compensation law)".

(b)(1) Subparagraph (B) of section 3121(a)(2) of the Internal Revenue Code of 1954 (defining wages for purposes of the Federal Insurance Contributions Act) is amended to read as follows:

"(B) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term 'wages' only payments which are received under a workmen's compensation law), or".

(2) Section 3121(a) of such Code is further amended by adding at the end thereof (after and below paragraph (18)) the following new sentence:

"Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (B) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages."

(c) Subsection (e) of section 3231 of such Code (defining compensation for purposes of the Railroad Retirement Tax Act) is amended by adding at the end thereof the following new paragraph:

“(4)(A) For purposes of applying sections 3201(b) and 3221(b) (and so much of section 3211(a) as relates to the rates of the taxes imposed by sections 3101 and 3111), in the case of payments made to an employee or any of his dependents on account of sickness or accident disability, clause (i) of the second sentence of paragraph (1) shall exclude from the term ‘compensation’ only—

“(i) payments which are received under a workmen’s compensation law, and

“(ii) benefits received under the Railroad Retirement Act of 1974.

“(B) Notwithstanding any other provision of law, for purposes of the sections specified in subparagraph (A), the term ‘compensation’ shall include benefits paid under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness, except to the extent that such sickness (as determined in accordance with standards prescribed by the Railroad Retirement Board) is the result of on-the-job injury.

“(C) Under regulations prescribed by the Secretary, subparagraphs (A) and (B) shall not apply to payments made after the expiration of a 6-month period comparable to the 6-month period described in section 3121(a)(4).

“(D) Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in compensation solely by reason of subparagraph (A) or (B) shall be treated for purposes of this chapter as the employer with respect to such compensation.”

(d)(1) The regulations prescribed under the last sentence of section 3121(a) of the Internal Revenue Code of 1954, and the regulations prescribed under subparagraph (D) of section 3231(e)(4) of such Code, shall provide procedures under which, if (with respect to any employee) the third party promptly—

(A) withholds the employee portion of the taxes involved,

(B) deposits such portion under section 6302 of such Code, and

(C) notifies the employer of the amount of the wages or compensation involved,

the employer (and not the third party) shall be liable for the employer portion of the taxes involved and for meeting the requirements of section 6051 of such Code (relating to receipts for employees) with respect to the wages or compensation involved.

(2) For purposes of paragraph (1)—

(A) the term “employer” means the employer for whom services are normally rendered,

(B) the term “taxes involved” means, in the case of any employee, the taxes under chapters 21 and 22 which are payable solely by reason of the parenthetical matter contained in subparagraph (B) of section 3121(a)(2) of such Code, or solely by reason of paragraph (4) of section 3231(e) of such Code, and

(C) the term “wages or compensation involved” means, in the case of any employee, wages or compensation with respect to which taxes described in subparagraph (B) are imposed.

(e) For purposes of applying section 209 of the Social Security Act, section 3121(a) of the Internal Revenue Code of 1954, and section 3221(e) of such Code with respect to the parenthetical matter contained in section 209(b)(2) of the Social Security Act or section

3121(a)(2)(B) of the Internal Revenue Code of 1954, or with respect to section 3231(e)(4) of such Code (as the case may be), payments under a State temporary disability law shall be treated as remuneration for service.

(f) Notwithstanding any other provision of law, no penalties or interest shall be assessed on account of any failure to make timely payment of taxes, imposed by section 3101, 3111, 3201(b), 3211, or 3221(b) of the Internal Revenue Code of 1954 with respect to payments made for the period beginning January 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to this section (or the amendments made by this section) and that such failure is due to reasonable cause and not to willful neglect.

(g)(1) Except as provided in paragraph (2), this section (and the amendments made by this section) shall apply to remuneration paid after December 31, 1981.

(2) This section (and the amendments made by this section) shall not apply with respect to any payment made by a third party to an employee pursuant to a contractual relationship of an employer with such third party entered into before December 14, 1981, if—

(A) coverage by such third party for the group in which such employee falls ceases before March 1, 1982, and

(B) no payment by such third party is made to such employee under such relationship after February 28, 1982.

PENALTIES FOR MISUSE OF SOCIAL SECURITY NUMBERS

SEC. 4. (a) Section 208(g) of the Social Security Act is amended—

(1) by inserting “or for the purpose of obtaining anything of value from any person,” before “or for any other purpose” in the matter preceding paragraph (1); and

(2) by adding after paragraph (2) the following new paragraph:

“(3) knowingly alters a social security card issued by the Secretary, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it; or”.

(b) Section 208 of such Act is further amended by striking out “shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both” in the matter following subsection (h) and inserting in lieu thereof “shall be guilty of a felony and upon conviction thereof shall be fined not more than \$5,000 or imprisoned for not more than five years, or both”.

(c) The amendments made by subsections (a) and (b) shall be effective with respect to violations committed after the date of the enactment of this Act.

STATUTORY DEADLINE FOR IMPLEMENTING AFDC HOME HEALTH AIDE DEMONSTRATION PROJECTS

SEC. 5. The last sentence of subsection (c)(2) of section 966 of the Omnibus Reconciliation Act of 1980 (as added by section 2156 of the Omnibus Budget Reconciliation Act of 1981) is amended by inserting “with at least seven States” after “agreements”.

INFORMATION WITH RESPECT TO PRISONERS

SEC. 6. Section 223(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of any individual who is confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection."

REPORT TO CONGRESS

SEC. 7. The Secretary of Health and Human Services shall report to the Congress within ninety days after the date of the enactment of this Act with respect to the actions being taken to prevent payments from being made under title II of the Social Security Act to deceased individuals, including to the extent possible the use of the death records available under the medicare program to screen the cash benefit rolls for such deceased individuals.

And the Senate agree to the same.

DAN ROSTENKOWSKI,
J. J. PICKLE,
CHARLES B. RANGEL
(except for section 3),
ANDREW JACOBS, Jr.,
RICHARD A. GEPHARDT,
BARBER B. CONABLE, Jr.,
WILLIS GRADISON,

Managers on the Part of the House.

BOB DOLE,
W. L. ARMSTRONG,
JOHN HEINZ,
RUSSELL LONG,
DANIEL MOYNIHAN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4331) to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

INTERFUND BORROWING

Present law.—The present law tax rates for OASDI and HI, and the allocation of the OASDI tax rate between OASI and DI are shown below. No authority exists for administratively transferring funds from one trust fund to another.

PRESENT LAW OASDHI TAX RATES

	OASI	DI	HI	Total
<i>Employees and employers, each (in percent).</i>				
1982	4.575	0.825	1.30	6.70
1983	4.575	.825	1.30	6.70
1984	4.575	.825	1.30	6.70
1985	4.750	.950	1.35	7.05
1986-89	4.750	.950	1.45	7.15
1990-2004	5.100	1.100	1.45	7.65
2005 and after	5.100	1.100	1.45	7.65
<i>Self-employed (in percent):</i>				
1982	6.8125	1.2375	1.30	9.350
1983	6.8125	1.2375	1.30	9.350
1984	6.8125	1.2375	1.30	9.350
1985	7.1250	1.4250	1.35	9.900
1986-89	7.1250	1.4250	1.45	10.000
1990-2004	7.6500	1.6500	1.45	10.750
2005 and after	7.6500	1.6500	1.45	10.750

House bill.—No provision.

Senate amendment.—Section 101 of the amendment would authorize borrowing between the OASI and DI trust funds at any time prior to January 1991. The Managing Trustee, the Secretary

of the Treasury, would determine when borrowing would be appropriate to meet the need to finance the benefit payments from these trust funds. The Managing Trustee would be authorized to borrow any amounts which he determines to be appropriate from either of these trust funds for transfer to and deposit in the other trust fund.

In any case where a loan had been made, interest would be paid by the borrowing fund to the lending fund at a rate equal to the rate the lending trust fund would earn on the unrepaid amount if the loan were a regular investment.

Whenever the Managing Trustee determined that the assets of the borrowing trust fund were sufficient to permit repayment of all, or part, of any loans made, he would make such repayments as he determines to be appropriate.

The Board of Trustees would be required to make a timely report to the Congress of any amounts borrowed or repaid (including interest payments).

Section 102 of the Senate amendment revises the distribution of social security taxes between the OASI, DI, and HI trust funds for 1982 and later, but did not alter the overall OASDHI combined tax rate under present law.

PROPOSED REALLOCATION OF OASDHI TAX RATES

	OASI	DI	HI	Total
Employees and employers, each (in percent):				
1982.....	5.185	0.715	0.80	6.70
1983.....	5.035	.665	1.00	6.70
1984.....	4.855	.595	1.25	6.70
1985.....	5.005	.595	1.45	7.05
1986-89.....	5.100	.600	1.45	7.15
1990-2004.....	5.150	.750	1.75	7.65
2005 and after.....	5.450	.750	1.45	7.65
Self-employed (in percent)				
1982.....	7.5150	1.0350	0.800	9.350
1983.....	7.3750	0.9750	1.000	9.350
1984.....	7.2150	0.8850	1.250	9.350
1985.....	7.5500	0.9000	1.450	9.900
1986-89.....	7.6500	0.9000	1.450	10.000
1990-2004.....	7.8550	1.1450	1.750	10.750
2005 and after.....	8.1750	1.1250	1.450	10.750

Conference agreement.—The conference agreement does not include the Senate provision with respect to changing the social security tax rates or the allocation of the OASDI tax rate between the OASI and DI trust funds. The conference agreement would authorize borrowing of existing assets between the OASI, DI, and HI trust funds under the same conditions and requirements as provided in the Senate amendment except with regard to effective date for borrowing between the OASI and DI trust funds. Under the conference agreement, the borrowing authority would be effective from the date of enactment through December 31, 1982. In determining that borrowing under this provision is appropriate in order to best meet the need for financing the benefit payments under any of the three trust funds, the Managing Trustee should, after consultation with the other trustees, make such determination no less frequently than on a monthly basis. In no case shall such interfund borrow-

ing make adjustments in the trust funds insuring benefit payments for a period more than six months beyond the date of such determination.

RESTORATION OF MINIMUM BENEFIT FOR CURRENT RECIPIENTS
(SECTION 2)

Present law.—The minimum benefit for all present and future beneficiaries will be eliminated. No person becoming eligible for old-age or disability benefits after October 1981 will be entitled to the minimum benefit. Benefits payable to new beneficiaries will be based on their actual earnings.

All other persons will be affected beginning with benefits payable for the month of March 1982. Their benefits will be recomputed based on their actual earnings record and according to recomputation procedures prescribed in regulations issued by the Secretary of HHS. In addition, persons aged 60 to 64 who are entitled to a minimum benefit for the month of February 1982 will become eligible for a special SSI benefit if they qualify under all SSI rules except that pertaining to age. The amount of the special SSI payment will be limited to the difference between the minimum benefit the individual received in February 1982 (without regard to the earnings test) and the recalculated benefit. These SSI payments will not be adjusted for increases in the cost of living, nor will these 60 to 64 year old persons become eligible for certain other benefits including State supplementation, food stamps, medicaid, or social services as a result of this provision.

This provision was adopted in section 2201 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-37).

House bill.—The House bill would repeal section 2201 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), thereby reinstating the OASDI minimum benefit provision as it existed under prior law for both current and future beneficiaries.

Senate amendment.—Section 103 of the amendment would restore the minimum benefit for all people who are eligible for benefits before November 1981 and who are residents of the 50 States, District of Columbia, Puerto Rico, Guam, Virgin Islands, and American Samoa. Among this group of beneficiaries, those with governmental pensions would, beginning with benefits for June of 1982, have their minimum benefit reduced dollar-for-dollar for the portion of their governmental pensions above \$300, but not below the amount of the benefit based on their actual earnings. This offset would apply only to the benefits of retired or disabled workers; it would not affect survivors' or dependents' benefits.

For members of religious orders who have taken a vow of poverty and who were first covered under the social security program prior to the date of enactment as a result of amendments adopted in 1972, the provision would apply the elimination of the minimum benefit for future recipients, only to those who become eligible after October 1991.

Conference agreement.—The conference agreement restores the minimum benefit for all people who are eligible for benefits before January 1982 or whose benefits are based on a worker's eligibility or death before January 1982. Also, the elimination of the minimum benefit for future recipients applies to members of religious orders who have taken a vow of poverty, who were first covered

under the social security program prior to the date of enactment, and who become eligible after October 1991.

For current recipients to whom the minimum benefit would be restored, the conference agreement does not include the provision of the Senate amendment that limits the restoration to residents of the United States and does not include the provision reducing the minimum benefit dollar-for-dollar for those also receiving governmental pensions above \$300.

EXTENSION OF COVERAGE TO FIRST SIX MONTHS OF SICK PAY— SECTION

3

Present law.—Payments made to or on behalf of an employee of a private employer on account of sickness or accident disability are subject to social security taxes and are treated as covered earnings *unless* they are either: (1) paid under a qualified plan or system; or (2) paid after the employee has not worked for the employer for more than six months. A qualified plan or system is one that applies to the employees of a firm generally or to a class or classes of employees. The existence of a plan or system is shown if the plan or system is in writing or is otherwise made known to employees (for example, through the medium of a bulletin board notice or the long and established practice of the employer). Other indications of the existence of a plan or system include, but are not limited to, contractual references to a plan or system, employer contributions to a plan, or segregated accounts for the payment of benefits.

With respect to railroad employment, the Railroad Retirement Tax Act, sec. 3201 et seq. of the Internal Revenue Code, excludes from taxable compensation the amount of any payment (including any amount paid by an employer for insurance or annuities) made to, or on behalf of, an employee or any of his dependents under a plan or system, on account of sickness or accident disability.

Under the Railroad Unemployment Insurance Act (sec. 2(a)) certain daily benefits are paid from the railroad unemployment insurance account for qualified employees for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness. In general, the daily benefit rate for such sickness is an amount equal to sixty percent of the employee's daily rate of compensation in a base year, but not less than \$12.70 nor in excess of \$25.00 per day. The maximum number of days of sickness within a benefit year for which benefits may be paid to an employee is one hundred and thirty (26 weeks). Under present law these sickness and disability benefits are not taxable compensation for railroad retirement tax purposes.

House bill.—No provision.

Senate amendment.—Section 104 of the amendment would remove the exclusion of certain sick pay received under a plan or system during the first six months the employee is off work. However, payments made by an insurance company would still be exempt unless the company is owned, to a substantial extent, by the employer, or the insurance company has an administrative-services-only contract with the employer under which the insurance company is reimbursed for sick payments actually made plus administrative expenses and profits. In addition, payments required by a workmen's compensation or temporary disability insurance law would continue to be exempt. This provision would be ef-

fective for sick payments made in January 1982 and thereafter. The treatment of payments made to an employee more than six months after the employee last worked would be unchanged from current law. Under the Senate amendment, sick payments made to employees covered by the railroad retirement system and sick pay benefits received under the Railroad Unemployment Insurance Act would continue to be exempt from railroad retirement employment taxes.

Conference agreement.—The conference agreement follows the Senate amendment extending coverage to certain forms of sick pay. In addition, the conference agreement would include in the definition of wages both for tax and coverage purposes, payments made under a sick pay plan to an employee or any of his dependents by a third party on account of the employee's illness. However, in the case where an employee has contributed to such plan, "wages" or "compensation" shall not include that portion of such payments attributable to the employee's contributions. It is the view of the conferees that such amounts are properly excludable in that they do not constitute remuneration for employment but rather represent a return on the premium contributions made by the employee. The conferees intend that rules similar to those provided in sec. 105 of the Internal Revenue Code (and regulations promulgated thereunder) shall apply in this instance. Payments which are received under a workmen's compensation law and those paid to an employee by either the employer or a third party more than six months after the employee last worked would continue to be excluded from the definition of wages, as under present law.

The conference agreement also provides that any third party (for example, an insurance company) that makes a payment, which is included in wages solely by reason of this provision, shall be treated as the employer with respect to such wages for purposes of social security and railroad retirement employment taxes. Thus, a third party payor will be responsible for the withholding of employee FICA taxes on wages up to the applicable maximum taxable wage base and for the remittance and timely deposit (as otherwise provided by law) of FICA taxes. However, the conference agreement establishes a specific statutory exception to this rule: the liability for the employer share of the FICA taxes will shift from the third party to the actual employer as soon as the third party payor has deposited the withheld employee taxes and notified the employer of the amount of sick pay made to the employee.

The conference agreement mandates the development of regulations which shall provide procedures under which, if the third party payor promptly withholds the employee portion of the taxes, deposits those taxes pursuant to the rules under section 6302 of the Code, and notifies the employer for whom services are usually rendered, of the payment, the employer (and not the third party payor) shall be liable for the employer portion of tax and for providing written statements and other reporting requirements under Code section 6051. It is the intention of the conferees that these regulations provide that third party payors withhold the employee portion of the tax as payments are made and deposit such withheld amounts under the applicable schedule authorized by Code section 6302 (including information reports such as Form 941 and related forms) as if these amounts were paid out of the third party payor's

own payroll. Further, the provision adopted by the conferees requires simultaneous notification of the employer of the amount of compensation paid to each employee. If these conditions are met, the liability for the employer portion of the payroll tax shifts from the party making the payments to the employer for whom services are normally rendered. Upon the employer's receipt of the notification of the payment made by the third party, such employer must deposit the appropriate employer taxes as if these payments were made out of his own payroll on that date. The conferees intend that the implementing regulations shall be promptly issued and that, having met the conditions specified in sec. 3(d), they will be relieved of the liability.

As a result, FICA and railroad retirement employment taxes on combined amounts in excess of the maximum taxable wage base could be withheld from employees and paid by employers. Under section 6413(c) of the Internal Revenue Code, employees who experience such overwithholding are eligible to receive refunds. The conferees expect that the Secretary will attempt to design procedures whereby employers and third party payors can avoid withholding on combined amounts in excess of the maximum taxable wage base (both for FICA and railroad retirement taxes) and will implement these procedures by regulation.

The conference agreement provides that, notwithstanding any other provision of law (including certain payments made under the Railroad Unemployment Insurance Act), compensation for purposes of the Railroad Retirement Tax Act shall include all payments made to an employee or any of his dependents on account of sickness or accident disability during the first six months the employee is off work except: payments which are received under a workmen's compensation law; payments which are received under The Railroad Retirement Act of 1974; or benefits which are paid under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness to the extent that such sickness is the result of on-the-job injury (as determined in accordance with standards prescribed by the Railroad Retirement Board).

In addition, the conference agreement provides that, for purposes of the taxes imposed by this provision, payments made under a state temporary disability insurance law shall be treated as remuneration for service.

Under the conference agreement, no penalties or interest shall be assessed for failure to make timely payments of taxes with respect to payments of sick pay made between January 1, 1982 and June 30, 1982 and which are imposed as a result of amendments made by this section, to the extent that such failure is due to willful neglect and such taxes are paid on or before June 30, 1982.

Finally, the conference agreement provides generally that the amendments made by this section shall apply to remuneration paid after December 31, 1981. However, these amendments shall not apply to any third party payment made to an employee pursuant to a contractual relationship of an employer with such third party which is entered into before December 14, 1981, if the third party's coverage for that employee's group ceases before February 28, 1982 and no third party payment is made to such employee under that contract after February 28, 1982. Since such payments would not

be considered remuneration for purposes of these taxes, no employment taxes would be levied on such payments.

PENALTIES FOR MISUSE OF SOCIAL SECURITY NUMBERS (SECTION 4)

Present law.—Criminal penalties are provided for: (1) knowingly and willfully using a social security number that was obtained with false information, (2) using someone else's social security number, or (3) unlawfully disclosing or compelling the disclosure of someone else's social security number. The crime is considered a misdemeanor and the penalty involves a fine of up to \$1,000 or imprisonment for up to one year or both.

House bill.—No provision.

Senate amendment.—Section 110 of the amendment would add new acts considered to be a misuse of social security cards by making it unlawful to: (1) alter, (2) buy or sell, or (3) counterfeit social security cards, or (4) possess a regular or counterfeit card with intent to sell or alter it.

The provision would make all unlawful acts affecting the social security number or card a felony, rather than a misdemeanor.

It would increase the maximum fine for conviction of such acts from \$1,000 to \$5,000 and the maximum prison term from 1 year to 5 years.

Conference agreement.—The conference agreement follows the Senate amendment.

STATUTORY DEADLINE FOR IMPLEMENTING AFDC HOME HEALTH AIDE DEMONSTRATION PROJECTS (SECTION 5)

Present law.—P.L. 96-499 authorized the Secretary to enter into agreements with up to 12 States for the purpose of conducting demonstration projects to train AFDC recipients as homemaker-home health aides. This provision was amended by P.L. 97-35 to require the Secretary to establish by October 1, 1981, such guidelines and regulations as may be necessary to assure that agreements with the States are entered into by January 1, 1982.

House bill.—No provision.

Senate amendment.—Section 113 of the amendment would require the Secretary to meet the January 1, 1982 deadline for entering into demonstration agreements with at least 7 States.

Conference agreement.—The conference agreement follows the Senate amendment.

INFORMATION WITH RESPECT TO PRISONERS (SECTION 6)

Present law.—Beginning October 1980, disability insurance benefits cannot be paid while individuals are imprisoned for conviction of a felony, except where the individual is satisfactorily participating in a rehabilitation program which has been specifically approved for that individual by a court of law and which is expected to result in his being able to engage in substantial gainful activity upon release and within a reasonable period of time. Such individuals are also not eligible for student benefits. However, benefits can be paid to dependents of prisoners, just as if the prisoners were receiving benefits.

The law also provides that impairments, to the extent that they arise from, or are aggravated by, the commission of a crime, cannot be considered in determining whether a person is disabled, and im-

pairments arising while an individual is in prison cannot be considered for purposes of disability as long as the person remains in prison.

In order to implement this law, the Secretary of HHS requires information from penal institutions with which to identify the relevant prisoners. In some cases, providing this information without the consent of the prisoner possibly violates various privacy acts.

House bill.—No provision.

Senate amendment.—Section 108 of the amendment provides that, without regard to any contrary Federal or State law, Federal, State, or local government agencies must furnish the name and social security number of any prisoner convicted of a felony, when the Secretary of HHS makes a written request to the agency for the information.

Conference agreement.—The conference agreement follows the Senate amendment.

REPORT TO CONGRESS REGARDING PAYMENTS TO DECEASED PERSONS (SECTION 7)

Present law.—Social security benefits terminate with the month in which a beneficiary dies. Benefits are not payable for that month.

House bill.—No provision.

Senate amendment.—Section 109 of the amendment would require the Secretary of HHS to report to Congress within 90 days after enactment on actions being taken to prevent payments to deceased social security beneficiaries.

Conference agreement.—The conference agreement follows the Senate amendment.

OTHER PROVISIONS OF THE SENATE AMENDMENT

EXTENSION OF DISABILITY INSURANCE MAXIMUM FAMILY BENEFITS TO OLD-AGE AND SURVIVORS INSURANCE BENEFICIARIES

Present law.—There is a limit on the amount of monthly benefits that can be paid on the earnings record of one worker. This limit is known as the maximum family benefit (MFB). In retirement and survivor cases, the MFB ranges from 150 to 188 percent of the primary insurance amount, the unreduced benefit of the worker. In disability cases, the MFB can be no more than the lower of 85 percent of the worker's average indexed monthly earnings or 150 percent of the primary insurance amount, but not less than 100 percent of the primary insurance amount.

House bill.—No provision.

Senate amendment.—Section 105 of the amendment would provide that the disability maximum family benefit formula would be extended to retirement and survivor cases, for workers reaching age 62 or dying after December 1981.

Conference agreement.—The conference agreement does not include the Senate amendment.

STUDY OF SOCIAL SECURITY ADMINISTRATION EFFICIENCY

Present law.—Administrative expenses of the social security programs are paid out of trust fund monies. No provision of law re-

quires special or ongoing reports to Congress on the adequacy of the administrative capacity of the agency.

House bill.—No provision.

Senate amendment.—Section 106 of the amendment would require GAO to undertake a study of the SSA for the purpose of determining the management efficiency, employee productivity, and technical capacities (including computer hardware and programming) of that agency and the extent of current information on the characteristics of recipients. The Comptroller General would be required to report to Congress, no later than 180 days after the date of enactment, the results of the study and any recommendations for improvements in any of the operations studied.

Conference agreement.—The conference agreement does not include the Senate amendment.

SEPARATE ACCOUNTING FOR SOCIAL SECURITY TRUST FUNDS

Present law.—Reports on the receipts, outlays, surplus or deficit, and reserve balance of each of the social security trust funds are included in the President's annual budget. In addition, the Boards of Trustees publishes annual reports on the financial status of the trust funds and includes in the reports current estimates of the short-run and long-run actuarial balances of each trust fund.

House bill.—No provision.

Senate amendment.—Section 107 of the amendment would require the President, in the annual budget message and mid-session review, to include a separate statement containing a summary of his requests for new budget authority and estimating outlays, revenues, and surplus or deficit of the OASI, DI, and HI trust funds. The separate statement would show the revenues, outlays, and surplus or deficit estimates for the trust funds, would describe the economic assumptions that were used in making the estimates for trust funds and the relationship to economic assumptions made for other parts of the budget, would indicate financial prospects of the trust funds, and would present a comparative summary of the three trust funds with all the other portions of the unified budget. This report would be in addition to the usual budget submission which includes the budget estimates for the trust funds within the unified budget estimates.

Conference agreement.—The conference agreement does not include the Senate amendment.

SOCIAL SECURITY CARDS

Present law.—Social security cards are issued on regular paper. No special procedures are employed to prevent alteration and duplication.

House bill.—No provision.

Senate amendment.—Section 111 of the amendment would require that new and replacement social security cards issued more than 190 days after enactment be made of bank-note paper and (to the maximum extent practicable) to be a card that cannot be counterfeited. The Secretary of HHS would be required to report his plans for implementing this provision within 90 days after enactment.

Conference agreement.—The conference agreement does not include the Senate amendment. The conferees, however, are aware

that the General Accounting Office has found that there may be a significant problem related to the use of counterfeit social security cards and believe that this matter deserves further consideration. The conferees believe that the Secretary of Health and Human Services should study the costs and benefits to the trust funds of such a proposal, the costs and benefits to other government programs, and the impact of such a proposal on the privacy of individuals.

FUTURE LEGISLATIVE CHANGES IN THE SOCIAL SECURITY ACT

Present law.—Congress has the authority to alter tax and spending provisions.

House bill.—No provision.

Senate amendment.—Section 112 of the amendment provides that it is the sense of the Congress that any future legislative changes in the Social Security Act will not reduce the current dollar amount of monthly OASDI benefits to which individuals are entitled for the month of enactment.

Conference agreement.—The conference agreement does not include the Senate amendment.

HIGHWAY TRUST FUND AND HIGHWAY EXCISE TAXES

Present law.—Under present law, the Highway Trust Fund and its related excise taxes are in place until October 1, 1984. At that time, the current rates of the excise taxes on gasoline and other motor fuels, on lubricating oil, on trucks and trailers, on truck parts and accessories, on tires, tubes and tread rubber and on the use of heavy trucks will expire or revert to prior lower rates. The provision authorizing the deposit of taxes to and appropriations from the Highway Trust Fund will also expire on October 1, 1984.

House bill.—No provision.

Senate amendment.—Sections 202 and 203 of the amendment would extend the highway excise taxes at current rates for 5 years, until October 1, 1989, but deposits of tax revenues to the Highway Trust Fund would be continued for 6 years, to October 1, 1990. Authorization for expenditures from the Highway Trust Fund would also be extended for 6 years, through September 30, 1990.

Conference agreement.—The conference agreement does not include the Senate amendment.

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(except for section 3),
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Managers on the Part of the House.

BOB DOLE,
W. L. ARMSTRONG,
JOHN HEINZ,
RUSSELL LONG,
DANIEL MOYNIHAN,

Managers on the Part of the Senate.