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2d Session
HOUSE OF REPRESENTATIVES
REPORT
No. 96-944

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

MAY 13, 1980.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 3236]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, having 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 to the text of the bill 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:

That this Act may be cited as the "Social Security Disability Amendments of 1980"

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TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

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

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

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

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

"(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

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

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

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

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

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).".

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

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

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

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

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual's computation base years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) which, before the application of section 215(f), meet the conditions of subclause (I), and (III) this sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.".

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

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

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

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

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

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

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

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

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

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

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

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act.

CONTINUATION OF MEDICARE ELIGIBILITY

SEC. 104. (a) Section 226(b) of the Social Security Act is amended—

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

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

(b) The amendments made by subsection (a) shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any indi-

vidual whose disability has not been determined to have ceased prior to such first day.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611(b) or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1611(e)(4) or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

"(b) For purposes of titles XIX and XX, any individual under age 65 who, for the month preceding the first month in the period to which this subsection applies, received—

"(i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability,

"(ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis,

"(iii) a payment of monthly benefits under subsection (a), or

"(iv) a supplementary payment under section 1616(c)(3),

shall be considered to be a blind or disabled individual receiving supplemental security income benefits for so long as the Secretary determines under regulations that—

"(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for

his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this title and titles XIX and XX which would be available to him in the absence of such earnings.".

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.".

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).".

(c) Part A of title XVI of the Social Security Act is amended by adding at the end thereof (after the new section added by subsection (a) of this section) the following new section:

"MEDICAL AND SOCIAL SERVICES FOR CERTAIN HANDICAPPED PERSONS

"SEC. 1620. (a) There are authorized to be appropriated such sums as may be necessary to establish and carry out a 3-year Federal-State pilot program to provide medical and social services for certain handicapped individuals in accordance with this section.

"(b)(1) The total sum of $18,000,000 shall be allotted to the States for such program by the Secretary, during the period beginning September 1, 1981, and ending September 30, 1984, as follows:

"(A) The total sum of $6,000,000 shall be allotted to the States for the fiscal year ending September 30, 1982 (which for purposes of this section shall include the month of September 1981).

"(B) The total sum of $6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotment made under subparagraph (A), shall be allotted to the States for the fiscal year ending September 30, 1983.

"(C) The total sum of $6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotments made under subparagraphs (A) and (B), shall be allotted to the States for the fiscal year ending September 30, 1984.

"(2) The allotment to each State from the total sum allotted under paragraph (1) for any fiscal year shall bear the same ratio to

such total sum as the number of individuals in such State who are over age 17 and under age 65 and are receiving supplemental security income benefits as disabled individuals in such year (as determined by the Secretary on the basis of the most recent data available) bears to the total number of such individuals in all the States. For purposes of the preceding sentence, the term 'supplemental security income benefits' includes payments made pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66.

"(3) At the beginning of each fiscal year in which the pilot program under this section is in effect, each State that does not intend to use the allotment to which it is entitled for such year (or any allotment which was made to it for a prior fiscal year), or that does not intend to use the full amount of any such allotment, shall certify to the Secretary the amount of such allotment which it does not intend to use, and the State's allotment for the fiscal year (or years) involved shall thereupon be reduced by the amount so certified.

"(4) The portion of the total amount available for allotment for any particular fiscal year under paragraph (1) which is not allotted to States for that year by reason of paragraph (3) (plus the amount of any reductions made at the beginning of such year in the allotments of States for prior fiscal years under paragraph (3)) shall be reallocated in such manner as the Secretary may determine to be appropriate to States which need, and will use, additional assistance in providing services to severely handicapped individuals in that particular year under their approved plans. Any amount reallocated to a State under this paragraph for use in a particular fiscal year shall be treated for purposes of this section as increasing such State's allotment for that year by an equivalent amount.

"(c) In order to participate in the pilot program and be eligible to receive payments for any period under subsection (d), a State (during such period) must have a plan, approved by the Secretary as meeting the requirements of this section, which provides medical and social services for severely handicapped individuals whose earnings are above the level which ordinarily demonstrates an ability to engage in substantial gainful activity and who are not receiving benefits under section 1611 or 1619 or assistance under a State plan approved under section 1902, and which—

"(1) declares the intent of the State to participate in the pilot program;

"(2) designates an appropriate State agency to administer or supervise the administration of the program in the State;

"(3) describes the criteria to be applied by the State in determining the eligibility of any individual for assistance under the plan and in any event requires a determination by the State agency to the effect that (A) such individual's ability to continue his employment would be significantly inhibited without such assistance and (B) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him under this title and titles XIX and XX in the absence of those earnings;

"(4) describes the process by which the eligibility of individuals for such assistance is to be determined (and such process may not involve the performance of functions by any State

agency or entity which is engaged in making determinations of disability for purposes of disability insurance or supplemental security income benefits except when the use of a different agency or entity to perform those functions would not be feasible);

"(5) describes the medical and social services to be provided under the plan;

"(6) describes the manner in which the medical and social services involved are to be provided and, if they are not to be provided through the State's medical assistance and social services programs under titles XIX and XX (with the Federal payments being made under subsection (d) of this section rather than under those titles), specifies the particular mechanisms and procedures to be used in providing such services; and

"(7) contains such other provisions as the Secretary may find to be necessary or appropriate to meet the requirements of this section or otherwise carry out its purpose.

The plan under this section may be developed and submitted as a separate State plan, or may be submitted in the form of an amendment to the State's plan under section 2003(d)(1).

"(d)(1) From its allotment under subsection (b) for any fiscal year (and any amounts remaining available from allotments made to it for prior fiscal years), the Secretary shall from time to time pay to each State which has a plan approved under subsection (c) an amount equal to 75 per centum of the total sum expended under such plan (including the cost of administration of such plan) in providing medical and social services to severely handicapped individuals who are eligible for such services under the plan.

"(2) The method of computing and making payments under this section shall be as follows:

"(A) The Secretary shall, prior to each period for which a payment is to be made to a State, estimate the amount to be paid to the State for such period under the provisions of this section.

"(B) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such period under this section.

"(e) Within nine months after the date of the enactment of this section, the Secretary shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

"(f) Each State participating in the pilot program under this section shall from time to time report to the Secretary on the operation and results of such program in that State, with particular emphasis upon the work incentive effects of the program. On or before October 1, 1983, the Secretary shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with his findings and recommendations.".

(d) The amendments made by subsections (a) and (b) shall become effective on January 1, 1981, but shall remain in effect only for a period of three years after such effective date.

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(e) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by subsections (a) and (b) so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by subsection (a) shall apply only with respect to remuneration received in months after September 1980.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

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

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

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual

may (following his participation in such program) be permanently removed from the disability benefit rolls."

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

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

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

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

(c) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 302. (a)(1) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(2) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of

the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(b) Section 1612(b)(4)(B) of such Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv)".

(c) The amendments made by this section shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

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

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out "or the third month following the month in which his disability ceases." at the end of the first sentence and inserting in lieu thereof "or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first

month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

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

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

(C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the

third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

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

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

(B) Section 216(i)(2)(D) of such Act is amended by striking out "(ii)" and all that follows and inserting in lieu thereof "(ii) the month preceding (I) the termination month (as defined in section 223(a)(1)), or, if earlier (II) the first month for which no benefit is payable by reason of section 223(e), where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section."

(c)(1)(A) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(d) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any indi-

vidual whose disability has not been determined to have ceased prior to such first day.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows:

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

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

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

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

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of

its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

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

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

Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.".

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

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, or assistant administrator (or his equivalent) of the State agency, in which case the Secretary may accord such priority to such employee.

"(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continu-

ation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary.".

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

"(c)(1) The Secretary may on his own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may modify such agency's determination and determine that such individual either is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Secretary on his own motion of a State agency determination under this paragraph may be made before or after any action is taken to implement such determination.

"(2) The Secretary (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

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

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.".

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

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

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

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

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

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

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

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

(g) The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, and shall report to the Congress by January 1, 1982, on his progress.

(h) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given.

(i) The Secretary of Health and Human Services shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(c) The amendments made by this section shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

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

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

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

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

(3) by striking out the second sentence.

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

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

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

(3) by striking out the second sentence.

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

LIMITATION ON COURT REMANDS

SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;"

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 308. The Secretary of Health and Human Services shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

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

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

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

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

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

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary

witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection:

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

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

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

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

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

(b) The amendment made by subsection (a) shall become effective on January 1, 1982.

REPORT BY SECRETARY

SEC. 312. The Secretary of Health and Human Services shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking out all that follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities (including employment search, not to exceed eight weeks in total in each year) with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) by striking out "or" at the end of clause (v);

(3) by striking out "under section 433(g)" in clause (vi);

(4) by adding "or" after the semicolon at the end of clause (vi); and

(5) by inserting after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid"

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" in the matter preceding clause (i), and inserting

in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual"; and

(2) by inserting "and" after the semicolon at the end of clause (iv), and striking out all that follows.

(e) Section 402(a)(19)(G) of such Act is amended—

(1) by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))" immediately after "administrative unit" in clause (i);

(2) by striking out "subparagraph (A)," in clause (ii), and inserting in lieu thereof "subparagraph (A) of this paragraph (I)";

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b) (1), (2), or (3)"; and

(4) by striking out "employment or training under part C," in clause (ii) and inserting in lieu thereof "employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, as well as timely payment for necessary employment search expenses, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 402(a)(19) of such Act is further amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by adding "and" after the semicolon at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

> *"(H) that an individual participating in employment search activities shall not be referred to employment opportunities which do not meet the criteria for appropriate work and training to which an individual may otherwise be assigned under section 432(b) (1), (2), or (3); ".*

(g) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b) (1), (2), or (3)".

(h) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

(i) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on September 30, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 402. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

(b) The amendment made by subsection (a) shall take effect July 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

SEC. 403. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B); and

(2) by striking out "; and the safeguards" and all that follows and inserting in lieu thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;".

(b) Section 2003(d)(1)(B) of such Act is amended—

(1) by striking out "provides that" and inserting in lieu thereof "provides safeguards which restrict";

(2) by striking out "will be restricted";

(3) by inserting "(A)" after "connected with"; and

(4) by inserting before the semicolon at the end thereof the following: ", and (B) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (B) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or receipient;".

(c) The amendments made by this section shall take effect on September 1, 1980.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY CERTAIN COURT PERSONNEL

SEC. 404. (a) Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter for the operation of the plan approved under section 454, so much of the expenditures of courts of such State and its political subdivisions (excluding expenditures for or in connection with judges and other individuals making judicial determinations, but not excluding expenditures for or in connection with their administrative and sup-

port personnel) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) The State agency may, if the law (or procedures established thereunder) of the State so provides, pay so much of the amount it receives under subsection (a) for any quarter as is payable by reason of the provisions of this subsection directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.".

(b) The amendment made by subsection (a) shall apply with respect to expenditures made by States on an after July 1, 1980.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 405. (a) Section 455(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding after and below paragraph (2) the following new paragraph:

"(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);".

(b) Section 454 of such Act is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such in-

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dividual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.".

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

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

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

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

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

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16).

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(d) Section 452 of the Social Security Act is further amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3).".

(e) The amendments made by this section shall take effect on July 1, 1981, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) 90 per centum of so much of the sums expended during such quarter as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX, and".

(b)(1) Section 402(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (28);

(B) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (29) the following new paragraph:

"(30) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this

part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

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

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

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

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

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

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

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

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

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

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

(c) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 413. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.".

(d) The amendments made by this section shall be effective with respect to expenditures made during calendar quarters beginning on or after July 1, 1981.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

SEC. 407. (a) Section 455(b)(2) of the Social Security Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary".

(b) Section 455 of such Act is further amended by adding after subsection (c) (as added by section 404 of this Act) the following new subsection:

"(d) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c) Section 403(b)(2) of such Act is amended—

(1) by striking out "and" at the end of clause (A); and

(2) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under

section 457 out of that portion of child support collections retained by it pursuant to such section".

(d) The amendments made by this section shall be effective in the case of calendar quarters commencing on or after January 1, 1981.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

SEC. 408. (a)(1) Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO STATE AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

"(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

"(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term 'child support obligations' only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

"(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term 'State or local child support enforcement agency' means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B)."

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out "(l)(3) or (6)" in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof "(l)(3), (6), or (7)".

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6)" and inserting in lieu thereof "(l)(6) or (7)".

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l)(6) or (7), or (m)(4)(B)".

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The State agency charged with the administration of the State law—

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

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

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

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

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

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)"

(3) The amendments made by this subsection shall take effect on July 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1126 the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1127. Notwithstanding any other provision of this Act, in any case where an individual—

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1127.".

(c) Section 1631(b) of such Act is amended—

(1) by inserting "(1)" immediately after "(b)", and

(2) by adding at the end thereof the following new paragraph:

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

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined on or after the first day of the thirteenth month which begins after the date of the enactment of this Act.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981.".

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and".

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

(c) The provisions of section 7 of Public Law 94-202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual's income and resources shall be deemed to include the income and resources of his sponsor and such sponsor's spouse (if such alien has a sponsor) as provided in section 1621. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.".

(b) Part A of title XVI of such Act is amended by adding at the end thereof (after the new section added by section 201(c) of this Act) the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIENS

"SEC. 1621. (a) For purposes of determining eligibility for and the amount of benefits under this title for an individual who is an alien, the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

"(A) The total yearly rate of earned and unearned income (as determined under section 1612(a)) of such sponsor and such

sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such year.

"(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the maximum amount of the Federal benefit under this title for such year which would be payable to an eligible individual who has no other income and who does not have an eligible spouse (as determined under section 1611(b)(1)), plus (ii) one-half of the amount determined under clause (i) multiplied by the number of individuals who are dependents of such sponsor (or such sponsor's spouse if such spouse is living with the sponsor), other than such alien and such alien's spouse.

"(C) The amount of income which shall be deemed to be unearned income of such alien shall be at a yearly rate equal to the amount determined under subparagraph (B). The period for determination of such amount shall be the same as the period for determination of benefits under section 1611(c).

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any year shall be determined as follows:

"(A) The total amount of the resources (as determined under section 1613) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined.

"(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) $1,500 in the case of a sponsor who has no spouse with whom he is living, or (ii) $2,250 in the case of a sponsor who has a spouse with whom he is living.

"(C) The resources of such sponsor (and spouse) as determined under subparagraphs (A) and (B) shall be deemed to be resources of such alien in addition to any resources of such alien.

"(c) In determining the amount of income of an alien during the period of three years after such alien's entry into the United States, the reduction in dollar amounts otherwise required under section 1612(a)(2)(A)(i) shall not be applicable if such alien is living in the household of a person who is a sponsor (or such sponsor's spouse) of such alien, and is receiving support and maintenance in kind from such sponsor (or spouse), nor shall support or maintenance furnished in cash or kind to an alien by such alien's sponsor (to the extent that it reflects income or resources which were taken into account in deterimining the amount of income and resources to be deemed to the alien under subsection (a) or (b)) be considered to be income of such alien under section 1612(a)(2)(A).

"(d)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this title, be required to provide to the Secretary such information and documentation with respect to his sponsor as may be necessary in order for the Secretary to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the Secretary such information and documentation as the Secretary may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information availa-

ble to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(e) Any sponsor of an alien, and such alien, shall be jointly and severably liable for an amount equal to any overpayment made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid to the Secretary or recovered in accordance with section 1631(b) shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(f)(1) The provisions of this section shall not apply with respect to any individual who is an 'aged, blind, or disabled individual' for purposes of this title by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), from and after the onset of the impairment, if such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence.

"(2) The provisions of this section shall not apply with respect to any alien who is—

"(A) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act;

"(C) paroled into the United States as a refugee under section 212(d)(5) of such Act; or

"(D) granted political asylum by the Attorney General.".

(c) The amendments made by this section shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act for the first time after September 30, 1980.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health and Human Services shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote

the objectives or facilitate the administration of title II of the Social Security Act.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 310(a) of this Act) the following new subsection:

"(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

(b) Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "SEC. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstra

tion projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616), or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.".

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than five years after the date of the enactment of this Act.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 506. (a) The Secretary of Health and Human Services is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health and Human Services. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of $2,000,000 for any fiscal year) as may be necessary.

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 507. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

"SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)(1)) may be certified by the Secretary as meeting minimum standards and requirements set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards and requirements set forth in subsection (c). Such certification shall remain in effect if the insurer files a notarized statement with the Secretary no later than June 30 of each year stating that the policy continues to meet such standards and requirements and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) such standards and requirements, he shall authorize the insurer to have printed on such policy (but only in accordance with such requirements and conditions as the Secretary may prescribe) an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State commissioner or superintendent of insurance with a list of all the policies which have received his certification.

"(b)(1) Any medicare supplemental policy issued in any State which the Supplemental Health Insurance Panel (established under paragraph (2)) determines has established under State law a regulatory program that—

"(A) provides for the application of standards with respect to such policies equal to or more stringent than the NAIC Model Standards (as defined in subsection (g)(2)(A));

"(B) includes a requirement equal to or more stringent than the requirement described in subsection (c)(2); and

"(C) provides for application of the standards and requirements described in subparagraphs (A) and (B) to all medicare supplemental policies (as defined in subsection (g)(1)) issued in such State,

shall be deemed (for so long as the Panel finds that such State regulatory program continues to meet the standards and requirements of this paragraph) to meet the standards and requirements set forth in subsection (c).

"(2)(A) There is hereby established a panel (hereinafter in this section referred to as the 'Panel') to be known as the Supplemental Health Insurance Panel. The Panel shall consist of the Secretary, who shall serve as the Chairman, and four State commissioners or superintendents of insurance, who shall be appointed by the President and serve at his pleasure. Such members shall first be appointed not later than December 31, 1980.

"(B) A majority of the members of the Panel shall constitute a quorum, but a lesser number may conduct hearings.

"(C) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Panel may require.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

"(E) Members of the Panel shall be allowed, while away from their homes or regular places of business in the performance of services for the Panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(c) The Secretary shall certify under this section any medicare supplemental policy, or continue certification of such a policy, only if he finds that such policy—

"(1) meets or exceeds (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjuction with one another) the NAIC Model Standards; and

"(2) can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies.

For purposes of paragraph (2), policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

"(d)(1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards and requirements set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Sec-

retary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(3)(A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

"(C) Subparagraph (A) shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations.

"(4)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(B) For purposes of subparagraph (A), a prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph, a medicare supplemental policy shall be deemed to be approved by the commissioner or superintendent of insurance of a State if—

"(i) the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program (as defined in subsection (g)(2)(B));

"(ii) the policy has been approved by the commissioners or superintendents of insurance in States in which more than 30 percent of such policies are sold; or

"(iii) the State has in effect a law which the commissioner or superintendent of insurance of the State has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy;

except that such a policy shall not be deemed to be approved by a State commissioner or superintendent of insurance if the State notifies the Secretary that such policy has been submitted for approval to the State and has been specifically disapproved by such State

after providing appropriate notice and opportunity for hearing pursuant to the procedures (if any) of the State.

"(C) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy is mailed is located in such State on a temporary basis.

"(D) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy expires not more than 12 months after the date on which the duplicate copy is mailed.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and, to the extent feasible, to individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, (v) improving price competition, and (vi) establishing effective approved State regulatory programs described in subsection (b).

"(B) Such study shall also address the need for standards or certification of health insurance policies, other than medicare supplemental policies, sold to individuals eligible for benefits under this title.

"(C) The Secretary shall, no later than January 1, 1982, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

"(2) The Secretary shall submit to the Congress no later than July 1, 1982, and periodically as may be appropriate thereafter (but not less often than once every 2 years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of—

"(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to beneftis

under this title of medicare supplemental policies which have been certified by the Secretary;

"(B) the need for any change in the certification procedure to improve its administration or effectiveness; and

"(C) whether the certification program and criminal penalties should be continued.

"(g)(1) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations. For purposes of this section, the term 'policy' includes a certificate issued under such policy.

"(2) For purposes of this section:

"(A) The term 'NAIC Model Standards' means the 'NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act', adopted by the National Association of Insurance Commissioners on June 6, 1979, as it applies to medicare supplement policies.

"(B) The term 'State with an approved regulatory program' means a State for which the Panel has made a determination under subsection (b)(1).

"(C) The State in which a policy is issued means—

"(i) in the case of an individual policy, the State in which the policyholder resides; and

"(ii) in the case of a group policy, the State in which the holder of the master policy resides.

"(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section. The Secretary shall first issue final regulations to implement the certification procedure established under subsection (a) not later than March 1, 1981.

"(i)(1) No medicare supplemental policy shall be certified and no such policy may be issued bearing the emblem authorized by the Secretary under subsection (a) until July 1, 1982. On and after such date policies certified by the Secretary may bear such emblem, including policies which were issued prior to such date and were subsequently certified, and insurers may notify holders of such certified polices issued prior to such date using such emblem in the notification.

"(2)(A) The Secretary shall not implement the certification program established under subsection (a) with respect to policies issued in a State unless the Panel makes a finding that such State cannot be expected to have established, by July 1, 1982, an approved State regulatory program meeting the standards and requirements of subsection (b)(1). If the Panel makes such a finding, the Secretary shall

implement such program under subsection (a) with respect to medicare supplemental policies issued in such State, until such time as the Panel determines that such State has a program that meets the standards and requirements of subsection (b)(1).

"(B) Any finding by the Panel under subparagraph (A) shall be transmitted in writing, not later than January 1, 1982, to the Committee on Finance of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and shall not become effective until 60 days after the date of its transmittal to the Committees of the Congress under this subparagraph. In counting such days, days on which either House is not in session because of an adjournment sine die or an adjournment of more than three days to a day certain are excluded in the computation.

"(j) Nothing in this section shall be construed so as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on July 1, 1982.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

AL ULLMAN,
JAMES CORMAN,
J. J. PICKLE,
ANDREW JACOBS,
WILLIAM COTTER,
C. B. RANGEL,
BARBER B. CONABLE, Jr.,
BILL ARCHER,
JOHN J. DUNCAN,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABE RIBICOFF,
GAYLORD NELSON,
MAX BAUCUS,
BOB DOLE,
JOHN DANFORTH,
DAVE DURENBERGER,
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 amendments of the Senate to the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, 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 to the text of the bill 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 difference 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.

TITLE I—PROVISIONS RELATING TO DISABILITY INSURANCE

Limit on Family Disability Insurance Benefits

(Sec. 101)

Present law.—The social security disability insurance program (DI) determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average indexed monthly earnings the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.

The basic benefit amount may be increased if the worker has a spouse or dependent children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

House bill.—The House bill limited total DI family benefits to the smaller of 80 percent of the worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). Under the provision, no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation was effective with respect to individuals becoming entitled to benefits on or after January 1, 1980.

Senate bill.—The Senate bill limited total DI family benefits to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. As under the House bill, no family benefit would be reduced below 100 percent of the worker's primary benefit. The bill provided for the same effective date as the House bill except the limitation would be effective only with respect to individuals who *first* became entitled to benefits on or after January 1, 1980.

Conference agreement.—The conferees agreed to limit DI family benefits to the smaller of 85 percent of the worker's average indexed monthly earnings (AIME), as in the Senate bill, or 150 percent of the worker's primary insurance amount (PIA), as in the House bill. The limitation is effective only with respect to individuals who *first* become entitled to benefits on or after July 1, 1980.

Reduction in Dropout Years

(Sec. 102)

Present law.—Disabled workers are allowed to exclude up to 5 years of low earnings in averaging their earnings. However, at least 2 years of earnings must be used in the benefit computation.

House bill.—The House provision excluded years of low earnings in the computation of disability benefits according to the following schedule:

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

The provision also allowed workers to drop out additional low earnings years if in those years the worker provided principal care of a child under age 6. In no case would the number of dropout years exceed 5.

Senate bill.—The Senate bill excluded years of low earnings in the computation of disability benefits according to the following schedule:

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

There was no provision for allowing additional dropout years for child care.

Conference agreement.—The conferees agreed to exclude years of low earnings in the computation of disability benefits according to the following schedule (as in the House bill):

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

The provision also would allow a disabled worker to drop out additional years from the computation period if in those years there was a child (of such individual or his or her spouse) under age 3 living in the same household substantially throughout each such year and the disabled worker did not engage in any employment in each such year. Dropout years for periods of childcare would be provided only to the extent that the combined number of childcare dropout years and dropout years provided under the regular schedule do not exceed 3.

The new schedule of dropout years applies to disabled workers who *first* become entitled to benefits after June 1980. The provision continues to apply to a worker until his death unless before age 62 he ceases to be entitled to disability benefits for 12 continuous months.

The provision allowing childcare dropout years would be effective for monthly benefits payable for months after June 30, 1981.

The provision in present law which requires that at least 2 years of earnings be used in the benefit computation is retained.

Elimination of Second Medicare Waiting Period

(Sec. 103)

Present law.—Beneficiaries of disability insurance (DI) must wait 24 consecutive months after becoming entitled to benefits to become eligible for medicare. If a beneficiary loses his eligibility and then becomes disabled again, another 24-consecutive-month waiting period is required before medicare coverage is resumed.

House bill.—The House provision eliminated the requirement that a person who becomes disabled a second time must undergo another 24-consecutive-month waiting period after becoming reentitled to benefits before medicare coverage is available to him. The amendment applied to workers becoming disabled again within 60 months, and to disabled widows or widowers and adults disabled since childhood becoming disabled again within 84 months.

Senate bill.—Same as House bill.

Conference agreement.—The conferees accepted the provisions of the House and Senate bills and agreed that the provision would be effective 6 months after enactment.

Extension of Medicare for an Additional 36 Months

(Sec. 104)

Present law.—Medicare coverage ends when disability insurance benefits cease.

House bill.—The House provision extended medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period was part of the new 24-month trial work period. See section 303.)

Senate bill.—Same as House bill.

Conference agreement.—The conferees accepted the provisions of the House and Senate bills and agreed to apply the new provision to disability beneficiaries whose disabilities have not been determined to have ceased prior to the 6th month after enactment.

Funding for Vocational Rehabilitation Services for Disabled Individuals

Present law.—Reimbursement from social security trust funds is now provided to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries. The purpose of the payment is to accrue savings to the trust funds as a result of rehabilitating the maximum number of beneficiaries into productive activity. The total amount of the funds that may be made available for such reimbursement may not, in any year, exceed 1½ percent of the social security disability benefits paid in the previous year.

House bill.—Effective for fiscal 1982, the House bill eliminated trust fund financing for rehabilitation services but provided trust fund re-

imbursement for the Federal share (80%) to the General Fund of the U.S. Treasury and to the States for twice the State share (20%×2) of rehabilitation services which result in the performance by a rehabilitated individual of substantial gainful activity (SGA) for a continuous period of 12 months or which result in employment for 12 consecutive months in a sheltered workshop. It directed the Secretary of HHS to study alternative methods of providing and financing the costs of rehabilitation services to disabled beneficiaries in order to realize maximum savings to the trust funds and to submit a report with recommendations to the President and the Congress by January 1, 1980.

Senate bill.—The Senate bill made no change from present law.

Conference agreement.—The conferees agreed not to change the provisions of present law.

The conferees anticipate that the new method of allocating trust fund money to the States for rehabilitation of social security clients which was recently adopted administratively will continue and be intensified in the future. This method generally allocates the trust fund money based on the relative number of social security beneficiaries each State rehabilitates with earnings at the substantial gainful activity (SGA) level, provided that no State loses more than ⅓ of its previous year's funding. Currently, rehabilitation is considered to have been achieved when the client has been employed for two months. The managers expect that the measure of success, i.e., rehabilitation at the SGA level, will be modified as soon as administratively feasible so that the allocation formula will be based on the State's relative share of the total number of social security clients employed as a result of rehabilitation for no less than 6 months (although not necessarily consecutive) with earnings at the SGA level throughout the period. Furthermore, the managers expect that steps will be taken to develop procedures which will eventually result in the allocation being based on the State's relative share of total benefit terminations brought about by vocational rehabilitation services. The conferees instruct the Social Security Administration and the Rehabilitation Services Administration (recently transferred to the Department of Education) to continue to explore the possibility of developing more timely and effective methods of measuring performance in trust fund rehabilitations. The results of these efforts should be promptly communicated to the Ways and Means and Finance Committees.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

Benefits for Individuals Who Engage In Employment Activity

(Sec. 201)

Present law.—Under present law, an individual may qualify for SSI disability payments only if and for so long as he "is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." The Secretary of Health and Human Services is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). At the present time, the level of earnings established by the Secretary for determining whether an individual is engaging in SGA is $300 a month. An individual who in fact has earnings above this level (1) cannot become eligible for SSI disability and (2), if already eligible, will (after a 9-month trial work period) cease to be eligible.

Senate bill.—The Senate bill included an amendment which, on a demonstration basis, provided that a disabled recipient who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status, which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the Federal SSI payment to be reduced to zero, the special benefit status would be terminated and the individual would not thereafter be eligible for any Federal SSI benefits or Federal cash benefits under the special benefits status unless he could reestablish his eligibility for SSI, which would include meeting the SGA limitation.

When a disabled SSI recipient's earnings rise to the point that he no longer qualifies for Federal SSI benefits, State supplementary payments or the special benefit status, he would nevertheless continue to retain eligibility for medicaid and social services as though he were an SSI recipient if the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision allowing continuation of eligibility for med-

icaid and social services for persons whose earnings make them ineligible for cash benefits would also apply to SSI recipients who are blind.

The Senate provisions would be effective for 3 years, during which the Department would be required to provide for a separate accounting of funds expended under this provision.

Conference agreement.—The conference agreement follows the Senate bill effective January 1, 1981 with the addition of a pilot program under which States could provide medical and social services to certain persons with severe impairments whose earnings exceed the substantial gainful activity limits and who are not receiving SSI, special benefits, or medicaid.

Under this pilot program, for the purpose of assisting States in providing medical or social services to certain severely handicapped persons, $18 million in Federal funds would be available to States on an entitlement basis for a 3-year period beginning September 1, 1981. $6 million would be available to States through the end of fiscal 1982. An additional $6 million would be available for each of the two following fiscal years. Funds that are not used during each of the first two years could be carried forward by the State.

Funds would be allocated among the States in proportion to the number of disabled SSI recipients aged 18 to 65. Prior to the start of each fiscal year, each State that does not intend to use its allocation would so certify to the Secretary of Health and Human Services. If a State certifies that it will not use all or some portion of its funds for any fiscal year or years, its allocation (or the unused portion thereof) for the period covered by the certification will be reallocated by the Secretary of HHS among States participating in the program that can make use of additional funds.

From the allocated funds, the Secretary of HHS would pay each State 75 percent of the costs of operating an approved plan for providing medical and social services to severely handicapped individuals who have earnings in excess of the substantial gainful activity limits and are not receiving SSI, special benefits or medicaid, if the State determines:

(1) that the absence of these benefits would significantly inhibit the individual's ability to continue his employment; and

(2) that the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits (SSI, medicaid and title XX) that would be available to him in the absence of those earnings.

(It is not intended that States would require an individual to obtain a determination as to the level of or potential eligibility for benefits which might be payable under the SSI, medicaid, and title XX programs in the absence of his earnings. Rather it is intended that each participating State would use generally available information concerning the benefits provided in that State under these programs to establish reasonable income limits to carry out this criterion.)

The State plan would have to include (1) a statement of intent to participate in the program; (2) a designation of the agency to administer the program; (3) a description of the eligibility criteria which the State will apply and the procedures for determining eligibility (which may not involve use of the Disability Determination Service which makes disability determinations for the DI and SSI programs

unless it is not feasible to use any other agency for the pilot program); and (4) a description of the services which the State intends to provide under the program. The State may submit a separate State plan or it may incorporate this plan as an amendment to its State administrative plan submitted to HHS under title XX. Under the pilot program, States could provide medical and social services through their medicaid and social services programs (not limited by eligibility criteria and scope of services under titles XIX and XX) but would receive Federal matching for those services under this provision rather than under title XIX or title XX. States could also provide services through some other mechanism if they found it appropriate.

States would be required to provide a report to HHS addressing the operation and results, emphasizing the work incentive effects, of the pilot program. On the basis of State reports, HHS would be required to report to the Congress. The report would be due not later than October 1, 1983; and should include, but not necessarily be limited to, relevant demographic information, earnings, employment information, and primary impairments of the individuals who received services under the pilot program, and the types of services they received. HHS would be required to publish final regulations to implement this program no later than nine months after the date of enactment.

Employment in Sheltered Workshops

(Sec. 202)

Present law.—Under present law, income from activity in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining SSI payments, and therefore do not qualify for the earned income disregards ($65 a month plus ½ of additional earnings).

Senate bill.—The Senate bill provided that remunerations received in sheltered workshops and work activities centers would be considered earned income and therefore qualify for the earned income disregards.

Conference agreement.—The conference agreement follows the Senate bill and the provision would be effective October 1980.

Deeming of Parents' Income to Disabled or Blind Children

(Sec. 203)

Present law.—Present law requires that the parents' income and resources be deemed to a blind or disabled child who lives in the household with them and who is under age 18 in determining the child's eligibility for SSI, or under 21 in the case of an individual who is in school or a training program.

Senate bill.—Under the Senate bill, the deeming of parents' income and resources would be limited to disabled or blind children under age 18, whether or not the person is in school or training. Children receiving SSI who, on the effective date of the provision, are age 18 to 21 would be protected against loss of benefits due to this change.

Conference agreement.—The conference agreement follows the Senate bill and the provision would be effective October 1980.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

Termination of Benefits for Persons in Vocational Rehabilitation Programs

(Sec. 301)

Present law.—Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled.

House bill.—The House bill provided that DI benefits will continue after medical recovery for persons in approved vocational rehabilitation plans or programs, if the Commissioner of Social Security determines that continuing in those plans or programs will increase the probability of beneficiaries going off the rolls permanently.

Senate bill.—The Senate bill included the same provision for SSI and DI beneficiaries except that the Secretary, rather than the Commissioner, would make the determination as to whether benefits should be continued.

Conference agreement.—The conference agreement accepts the Senate extension of the provision to SSI beneficiaries, but adopts the House provision that the Commissioner will make the determination that benefits should be continued.

The conference committee wishes to make clear that it expects that, in most cases, medical cessation of disability will result in the termination of benefits, as now occurs in all cases. The conferees are concerned that under present vocational rehabilitation procedures many individuals have been permitted to enter approved programs even when there is a reasonable expectation of medical recovery before the termination of the program. (This is demonstrated by the fact that an increasing number of individuals have been terminated from the benefit rolls while participating in a State approved vocational rehabilitation program who were at the time of enrollment in the program diaried for reexamination on the basis of the time-limited nature of their medical impairment.) It is not the intent of this provision to continue benefits in these cases. It is the intent of the provision to consider only those exceptional cases where the disabled beneficiary is not expected at the beginning of the program to recover medically before the end of the program, but he or she does recover and is no longer considered disabled within the meaning of the Social Security Act, although some residual functional limitation still remains.

The provision is effective 6 months after enactment.

Treatment of Extraordinary Work Expenses

(Sec. 302)

Present law.—Regulations issued under present law provide that, in determining whether an individual is performing substantial gainful activity (SGA), extraordinary expenses incurred by the individual in connection with his employment, and because of his impairment, are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

House bill.—For purposes of DI, the House bill provided for a deduction from earnings of costs to the individual of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions.

Senate bill.—The Senate bill included the same provision, but also provided that the deduction would apply even where the individual does not pay the cost of the impairment-related work expenses (i.e. where the cost is paid by a third party). The bill added language giving the Secretary the authority to specify in regulations the type of care, services, and items that may be deducted, and provided that the amounts to be deducted shall be subject to such reasonable limits as the Secretary may prescribe. It also made the provision applicable to SSI.

Conference agreement.—The conferees adopted the Senate provision, but agreed that, for both programs, the disregard will be applied only where the individual paid the cost of the impairment related expense. In addition, impairment related work expenses would be disregarded in determining the monthly SSI payment of a disabled SSI recipient. It is the intent of the conferees that the regulations developed by the Secretary to carry out these provisions shall apply in a uniform manner to the determination of the amounts which may be deducted in both the DI and SSI programs. The provision is effective six months after enactment.

Extension of the Trial Work Period—Reentitlement to Benefits

(Sec. 303)

Present law.—Under the DI and SSI programs, when an individual completes a 9-month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following. Under the DI program, widows and widowers are not entitled to a trial work period.

House bill.—The House bill, in effect, extended the trial work period under the DI program to 24 months. In the last 12 months of the 24-month period an individual who was performing substantial gainful activity immediately following the 9-month trial work period would not receive cash benefits while engaging in substantial work activity, but would automatically be reinstated to active benefit status if earnings fall below the SGA level.

The bill also provided that the same trial work period would be applicable to disabled widows and widowers (who are not permitted a trial work period at all under existing law).

Senate bill.—The Senate bill was the same as the House bill with technical language changes, and also made the provision generally applicable to the SSI program.

Conference agreement.—The conference accepted the provisions of the Senate bill, and agreed that the provision would be effective with respect to individuals whose disabilities have not been found to have terminated before the sixth month after enactment.

Administration by State Agencies

(Sec. 304 (a) (b) (e) (f) and (h))

Present law.—Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HHS. Unlike the grant-in-aid programs, the relationship is contractual and State laws and practices are controlling with regard to many administrative aspects. State agencies make the determinations based on guidelines provided by the Department and the costs of making the determinations are paid from the disability trust fund in the case of DI claimants, or from general revenues in the case of SSI claimants, by way of advancements of funds or reimbursements to the contracting State agency. Present agreements allow both the State and the Secretary to terminate the agreement. The States generally may terminate with 12 months' notice and the Secretary may terminate if he finds the State has not complied substantially with any provision of the agreement.

House bill.—The House bill required that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. It also required the Secretary to issue regulations specifying, in such detail as he deemed appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function "in order to assure effective and uniform administration of the disability insurance program throughout the United States." Certain operational areas were cited as "examples" of what the regulations may specify.

The bill also provided that if the Secretary found that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In cases of termination by the State, the State would be required to continue to make disability determinations for not less than 180 days after notifying the Secretary of its

intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Senate bill.—The Senate bill was the same as the House bill, except that it:

(1) Deleted as an example of the kinds of matters which the Secretary's regulations may cover: "any other rules designed to facilitate or control or assure the equity and uniformity of the State's disability decision."

(2) Added language specifying that "Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law."

Conference agreement.—The conference agreement follows the Senate bill. The conference committee deleted the catch-all phrase of "any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations" as providing vague and unnecessary authority. The conference agreement provides that these changes will be effective beginning with the 12th month following the month in which the bill is enacted. Any State that has an agreement on the effective date of the amendment will be deemed to have given affirmative notice of wishing to make disability determinations under the regulations. Thereafter, it may give notice of termination which shall be effective no earlier than 180 days after the notice is given.

Protection of State Employees

(Sec. 304 (b) and (i))

Present law.—Under provisions of the Federal Personnel Manual, when the Federal Government takes over a function being carried out by a State, the Federal agency at its discretion may retain the State employees in their positions.

House bill.—The House bill required the Secretary to submit to the Committee on Ways and Means and the Committee on Finance by January 1, 1980, a detailed plan on how he expected to assume the functions of a State disability determination unit when this became necessary. The bill further provided that the plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out that function. If any amendment of Federal law or regulation was required to carry out such plan, a recommendation for such amendment was to be included in the plan for action, or for submittal by such committees, with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws.

Senate bill.—The Senate bill was the same as the House bill except that it delayed the report by the Secretary to July 1, 1980, and required a report to Congress rather than to the Committees on Ways and Means and Finance. Also it added a requirement that if the Secretary assumes the disability determination function he must assure preference to State agency employees who are capable of performing duties in the disability determination process over any other individual in filling new Federal positions.

In addition, the Secretary would be prohibited from assuming the State functions until the Secretary of Labor determined that, with respect to any displaced State employees who were not hired by the Secretary, the State had made "fair and equitable arrangements to protect the interests of employees so displaced." The protective arrangements would have to include only those provisions provided under all applicable Federal, State, and local statutes, including the preservation of rights and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements, the continuation of collective-bargaining rights, the assignment of affected employees to other jobs or to retraining programs, the protection of individuals against a worsening of their positions with respect to employment, the protection of health benefits and other fringe benefits, and the provision of severance pay.

Conference agreement.—The conference agreement follows the Senate bill except that the Secretary would not be required to provide a hiring preference to the administrator, deputy administrator, or assistant administrator (or comparable position) in the event that the Secretary found it necessary to assume the functions of a State agency. Although he would not be required to provide a preference to persons in those positions, he could do so if he determines that such action is appropriate. The effective date is the same as for the provision for administration of State agencies.

Federal Review of State Agency Decisions—Reversal of Decisions

(Sec. 304(c))

Present law.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of initial disability claims adjudicated by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. This is on a sample basis and varies from 2 percent in the larger States to 25 percent in the smaller States.

The Secretary has authority to reverse favorable decisions with respect to DI beneficiaries. He may reverse both favorable and unfavorable decisions in SSI.

House bill.—The House bill required Federal preadjudicative review of DI allowances according to the following schedule:

Decisions made in fiscal year:	*Minimum percent reviewed*
1980	15
1981	35
1982 and thereafter	65

Senate bill.—The Federal review of State agency decisions was to include both allowances and denials, according to the following schedule:

Decisions made in fiscal year:	*Minimum percent reviewed*
1981	15
1982	35
Thereafter	65

The Secretary would be given the authority to reverse decisions that are unfavorable to DI claimants.

Conference agreement.—The conference agreement follows the Senate schedule but provides (as in the House bill) for review only of allowances and continuances. The agreement follows the Senate bill as to granting authority to the Secretary to reverse denials.

The conference committee notes that the percentage requirements for preadjudicative review are nationwide requirements and that the Social Security Administration will determine whether they should be higher or lower on an individual State basis. The conferees also instruct the Secretary to report to the Ways and Means and Finance Committees by January 1982 concerning the potential effects on processing time and on the cost effectiveness of the requirement of the 65 percent review for fiscal year 1983, and thereafter. This provision is effective upon enactment.

Own-Motion Review of ALJ Decisions

(Sec. 304(g))

Present law.—After his claim has been denied by the State agency initially and on reconsideration, an applicant has the opportunity for a hearing before an administrative law judge (ALJ). In the past there had also been fairly extensive review of ALJ allowances and denials through own-motion review by the Appeals Council as authorized by the Administrative Procedure Act and the regulations of the Secretary. This own-motion review has almost been eliminated in recent years.

Senate bill.—The Secretary of Health and Human Services would be required to implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act (the disability determination provisions). He would be required to report to Congress by January 1, 1982, on the progress of this program. In his report, he must indicate the percentage of such decisions being reviewed and describe the criteria for selecting decisions to be reviewed and the extent to which such criteria take into account the reversal rates for individual administrative law judges by the Secretary (through the Appeals Council or otherwise), and the reversal rate of State agency determinations by individual administrative law judges.

Conference agreement.—The conference agreement follows the Senate bill with a modification which strikes the language specifying what is to be included in the required report. The conferees believe the report should indicate the percentage of ALJ decisions being reviewed and describe the criteria for selecting decisions to be reviewed. The conferees are concerned that there is no formal ongoing review of social security hearing decisions. The variance in reversal rates among ALJ's and the high overall ALJ reversals of determinations made at the prehearing level indicate that there is a need for such review. The conferees recognize that, at the hearing level, the claimant appears for the first time before a decisionmaker and additional evidence is generally submitted. The conferees also recognize that there have been significant changes in State agency denial rates and that in certain

areas the ALJ's and State agencies have been operating with different policy guidelines. The report should identify the effects of these factors as well as any differences in standards applied by ALJ's.

Information to Accompany Secretary's Decision

(Sec. 305)

Present law.—There is no statutory provision setting a specific amount of information to explain the decision made on a claim for benefits.

House bill.—The House bill required that any decision by the Secretary with respect to all OASDI claimants shall provide notice to the claimant which includes:

A citation and discussion of the pertinent law and regulations,
A list and summary of the evidence of record, and
The Secretary's determination and the reason(s) upon which it is based.

Senate bill.—The Senate bill required that notices of disability denial to DI and SSI claimants shall contain a statement of the case, in understandable language, and include:

A discussion of the evidence, and
The Secretary's determination and the reason(s) upon which it is based.

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

The conference committee wishes to make clear that the Secretary's statement of the case be brief, informal, and not technical. The conferees do not contemplate that the statement would resemble the more formal "statement of the case" approach used by the Veterans Administration (VA) in its appeals proceedings. In addition, the conference committee wishes to make clear that where a written personalized explanation has been provided explaining why the individual will no longer be entitled to disability benefits (e.g. cessations of disability, adverse reopenings of determinations, etc.) it will not be necessary to provide this information again in the actual termination notice.

The provision is effective for decisions made on or after the first day of the 13th month following the month of enactment.

Limitation on Court Remand

(Sec. 307)

Present law.—Prior to filing an answer in a court case, the Secretary may, on his own motion, remand a case back to an ALJ. Similarly, the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ.

House bill.—The House bill limited the absolute authority of the Secretary of HHS to remand court cases. It required that such remands would be discretionary with the court upon a showing by the Secretary of good cause. A second provision relates to remands by the court. The bill provided that a remand would be authorized only on a showing that there is new evidence which is material, and that there

was good cause for failure to incorporate it into the record in a prior proceeding.

Senate bill.—Same as House.

Conference agreement.—The conference agreement includes this provision of the Senate and House bills effective upon enactment. The conferees have been informed that there are sometimes procedural difficulties which prevent the Secretary from providing the court with a transcript of administrative proceedings. Such a situation is an example of what could be considered "good cause" for remand. Where, for example, the tape recording of the claimant's oral hearing is lost or inaudible, or cannot otherwise be transcribed, or where the claimant's files cannot be located or are incomplete, good cause would exist to remand the claim to the Secretary for appropriate action to produce a record which the courts may review under 205(g) of the act. It is the hope of the conferees that remands on the basis of these breakdowns in the administrative process should be kept to a minimum so that persons appealing their decision are not unduly burdened by the resulting delay.

Time Limits for Decisions on Benefit Claims

(Sec. 308)

Present law.—There is no limit on the time that may be taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

House bill.—The House bill required the Secretary to submit a report to Congress recommending appropriate time limits for the various levels of adjudication of title II cases. In recommending the limits, the Secretary was to give adequate consideration to both speed and quality of adjudication.

Senate bill.—Same as House bill.

Conference agreement.—The conferees accepted the provision of the House and Senate bills but with the Senate due date of July 1, 1980.

Payment for Existing Medical Evidence

(Sec. 309)

Present law.—Authority does not now exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

House bill.—The House bill would provide that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

Senate bill.—The Senate bill included the same provision except that payment for evidence would be made to the provider only when such evidence is "requested" and required by the Secretary.

Conference agreement.—The conference agreement follows the Senate bill and is effective six months after enactment.

Payment for Certain Travel Expenses

(Sec. 310)

Present law.—Explicit authority does not exist under the Social Security Act to make payments from the trust funds to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

House bill.—The House bill provided permanent authority for payment of travel expenses incident to medical examination and the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from participation in various phases of the DI adjudication process.

Senate bill.—The Senate bill included the same provision and extended it to include SSI and medicare and all determinations under title II. However, a limitation on air travel costs included in the House bill was omitted in the title II authority.

Conference agreement.—The conference agreement follows the Senate bill with a modification to include the limitation on air travel costs.

The conference committee wishes to make it clear that this provision does not authorize reimbursement of a claimant's travel expenses in going to and from Social Security offices to file requests for reconsideration or to discuss the reconsideration decision. It is the intent of this provision to provide reimbursement only in the cases of those claimants who are entitled, as part of the reconsideration process, to engage in a face-to-face interview with a State agency decisionmaker if this procedure is implemented by the Social Security Administration.

Periodic Review of Disability Determinations

(Sec. 311)

Present law.—Administrative procedures now provide that a disability beneficiary's continued eligibility for benefits be reexamined only under a limited number of circumstances (i.e., where there is a reasonable expectation that the beneficiary will show medical improvement).

House bill.—The House bill provided that there will be a review of the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. This review would be in addition to, and not considered as a substitute for, any other reviews which are required.

Senate bill.—The Senate bill included the same provision except that even cases where the initial prognosis shows the probability that the condition will be permanent would be subject to review made at such times as the Secretary determines to be appropriate.

Conference agreement.—The conference agreement follows the Senate bill and is effective January 1982.

Report by Secretary

(Sec. 312)

Senate bill.—The Senate bill required the Secretary to make a full and complete report to the Congress on the effects of the provisions included in the first three titles of the bill.

Conference agreement.—The conferees agreed to the Senate amendment, with the understanding that the report will address such questions as the work incentive effects of relevant provisions, administrative problems involved in the implementation and operation of the provisions, and cost and caseload impact with respect to both the DI and SSI programs. The report is due by January 1985.

Scope of Federal Court Review—Findings of Fact

Present law.—The U.S. District Court shall have power to enter upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a hearing. The findings of the Secretary as to any fact if supported by substantial evidence, shall be conclusive.

Senate bill.—The Senate bill modified the scope of Federal court review so that the Secretary's determinations with respect to facts in Title II and Title XVI would be conclusive, unless found to be arbitrary and capricious. The substantial evidence requirement would be deleted.

Conference agreement.—The conference agreement deletes the provisions of the Senate bill because of the uncertainty as to the ramifications of the rule proposed and the concern that the administrative process is not operating with the degree of credibility which would justify elimination of the "substantial evidence rule". The provision mandating pre-effectuation review of State agency allowances and Appeals Council own motion review of ALJ decisions eventually should enhance the validity of the process and lead to the need for less reliance on judicial review. The conference committee believes that the National Commission on Social Security should examine the disability adjudication and appeals process generally and deal specifically with such elements as the Administration proposals for judicial review in addition to alternative approaches such as a Disability Court. The problem of the great number of disability court cases, unevenness of courts in applying the substantial evidence rule and varying interpretations of crucial elements of the program in different judicial circuits, is worthy of further study.

The conference committee would like to reiterate what both committees stated in their reports on Public Law 94–202 that the courts should interpret the substantial evidence rule with strict adherence to its principles since the practice of some courts in making *de novo* factual determinations could result in very serious problems for the Federal judiciary and the social security programs.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

AFDC Work Requirement

(Sec. 401)

Present law.—Recipients of Aid to Families with Dependent Children who are not specifically exempt are required to register for manpower services, training, and employment as a condition of AFDC eligibility. Those who are exempt from the registration requirement are children under age 16, persons caring for a child under age 6, persons who are ill or needed as the caretaker for someone in the home who is ill, or persons who are remote from a work incentive program (WIN) project.

Assistance may be terminated "for so long as" an individual (who has been certified by the welfare agency as ready for employment or training) refuses without good cause to participate in employment or training under WIN. Under court interpretation WIN sanctions may be applied only "for so long as" there is refusal, thus allowing a recipient to move on and off AFDC without being subject to any specific period during which his benefits may be terminated.

Federal matching for WIN programs is 90 percent. The State matching share of 10 percent may be either in cash or in kind with respect to manpower activities. State matching for supportive services must be in cash.

Senate bill.—The Senate bill added "other employment related activities" to the types of activities for which AFDC recipients are required to register. These are described in the committee report as including employment search. The bill also specifically required that necessary social and supportive services be provided during any employment search activities under the WIN program. These services would be authorized to be provided to registrants prior to certification.

The bill authorized the Secretaries of Labor and HEW (now HHS) to establish, by regulation, the period of time during which an individual would not be eligible for assistance in the case of refusal without good cause to participate in a WIN program. In addition, the present law provision for a 60-day counseling period for persons who refuse to participate was eliminated.

The bill also: required that State supportive service units be co-located with manpower units to the maximum extent feasible; allowed State matching for supportive services to be in cash or in kind; clarified that income from WIN public service employment is not fully excluded in determining benefits (there would be no disregard of the first $30 a month plus one-third of additional earnings); added to the individuals who are exempt from registration for WIN, individuals who are working at least 30 hours a week.

Conference agreement.—The conferees agreed to the Senate provision, with amendments. The conference agreement provides that the criteria for appropriate work and training to which an individual may be assigned under section 432(b) (1), (2), and (3) shall apply in the case of work to which an individual may be referred as part of employment search programs conducted under the work incentive program. In other words, job referral under the new employment search provision would be limited to jobs that meet the current WIN regulations relating to appropriate employment. (Present regulations provide limits as to reasonable travel time, provision for necessary supportive services, requirements for wages, health and safety, and others.)

In addition, the conferees agreed to limit an individual's job search period to 8 weeks in one year, and added a requirement that there be timely reimbursement of any employment search expenses paid for by the individual.

Under the conference agreement, the provisions relating to termination of assistance and treatment of PSE earnings are effective upon enactment. Other provisions are effective September 30, 1980.

Use of IRS to Collect Child Support for Non-AFDC Families

(Sec. 402)

Present law.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the States have made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health and Human Services. The State must agree to reimburse the U.S. for any costs involved in making the collection.

Senate bill.—The Senate bill authorized use of IRS collection mechanisms in the case of families not receiving AFDC, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

Conference agreement.—The conferees agreed to the Senate provision, with an effective date of July 1, 1980.

Safeguards Restricting Disclosure of Certain Information Under AFDC and Social Services

(Sec. 403)

Present law.—Current law restricts the use or disclosure of information to purposes directly connected with: AFDC, SSI, Medicaid, or the Title XX social services program; any investigation, prosecution, or criminal or civil proceeding related to the administration of these programs; or the administration of any other federally assisted program providing assistance or services based on need. Present law also prohibits the disclosure to any committee or legislative body of

information which identifies by name or address any applicant for, or recipient of, such assistance or services.

Senate bill.—The Senate bill modified titles IV and XX to allow the disclosure of information regarding individuals assisted under the State's plan (1) for purposes of any authorized audit conducted in connection with the administration of the program including an audit performed by a legislative audit body, and (2) to the Committee on Finance and Committee on Ways and Means.

Conference agreement.—The conference agreement includes the provisions of the Senate bill, except that disclosure of information containing names and addresses of individual recipients to the Committees on Finance and Ways and Means would not be authorized. The conferees note that this limitation pertains only to names and addresses. As under existing law, the two committees would otherwise have full access to data and findings concerning the operations of these programs and would be able to request and receive the results of program audits. The conferees note that there is a similar provision relating to disclosure of information in H.R. 3434, which is now pending before the Congress. The conferees understand that the provisions in both bills will have the same result of allowing disclosure for purposes of any authorized audit by a legislative audit entity. The provision is effective on September 1, 1980.

Federal Matching for Child Support Activities Performed by Court Personnel

(Sec. 404)

Present law.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for, or in connection with, judges or other court officials making judicial decisions, and other supportive and administrative personnel.

Senate bill.—The Senate bill authorized Federal matching funds for expenditures of courts (including, but not limited to compensation for judges or other persons making judicial determinations and other support and administrative personnel of courts who perform Title IV–D functions), but only for those functions specifically identifiable as IV–D functions. Matching would be provided only for expenditures in excess of levels of spending in the State for these activities in calendar 1978.

Conference agreement.—The conferees agreed to the Senate provision, with an amendment deleting the authorization for compensation of judges or other officials making judicial decisions, but allowing the authorization for expenditures for their administrative or support personnel, such as the bailiff, stenographer, and court reporter. The provision is effective for expenditures after July 1, 1980.

Child Support Management Information System

(Sec. 405)

Present law.—Federal matching for child support administrative costs, including the cost of establishing and using management information systems, is provided at a rate of 75 percent.

Senate bill.—The Senate bill increased Federal matching to 90 percent for the costs of developing and implementing child support management information systems, retaining the present 75 percent matching rate for the costs of operating such systems. The bill required the Secretary to provide technical assistance to the States and provided that a State system must meet certain specified requirements in order to receive Federal matching. The Senate bill further required continuing review by the Secretary of HHS of State systems.

Under the bill States choosing to establish and operate systems must include as part of such systems (1) the ability to control and monitor all the factors of the support collection and paternity determination process, (2) interface with the AFDC program, (3) security against access to data, and (4) the ability to provide management information on all cases from application through collection and referral.

Conference agreement.—The conferees agreed to the Senate amendment, with an effective date of July 1, 1981.

AFDC Management Information System

(Sec. 406)

Present law.—States receive 50 percent Federal matching for costs of administering their AFDC programs; there is no special funding for computer systems.

Senate bill.—The Senate bill provided 90 percent Federal matching to States for the cost of developing and implementing computerized AFDC management information systems and 75 percent for the cost of their operation. The Secretary of Health and Human Services would be required to approve State systems as a condition of Federal matching (both initially and on a continuing basis). In order to qualify for this increased match, a State system would have to include certain specified characteristics, including (1) ability to provide data on AFDC eligibility factors, (2) capacity for verification of factors with other agencies, (3) capability for notifying child support, food stamp, social services, and medicaid programs of changes in AFDC eligibility and benefit amount, (4) compatibility with systems in other jurisdictions, and (5) security against unauthorized access to or use of data in the system. The Department would be required to provide technical assistance to the States on a continuing basis.

Conference agreement.—The conferees agreed to the Senate provision to increase to 90 percent the matching for the cost of developing and implementing computerized systems. The 90 percent matching includes the purchase or rental of computer equipment and software. However, the matching rate for operating such systems would remain at 50 percent. The provision is effective July 1, 1981.

Child Support Reporting and Matching Procedures

(Sec. 407)

Present law.—Present law requires that the Office of Child Support Enforcement (1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels and the major problems encountered in implementing the program. The law also provides that the States will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate State reporting system is required.

Senate bill.—The Senate bill would prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. It would also require the Department of Health and Human Services to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Conference agreement.—The conferees agreed to the Senate bill, with an effective date of January 1, 1981.

Access to Wage Information for Child Support Program

(Sec. 408)

Present law.—Present law requires the Secretary of HHS to make available to States and political subdivisions wage information contained in the records of the Social Security Administration which is necessary to determine eligibility for AFDC The law requires the Secretary to establish safeguards to insure that information is used only for authorized purposes. There is no similar provision for purposes of child support.

In addition, present law requires agencies that administer State unemployment compensation to make available to States and political subdivisions wage information contained in their records which is necessary to determine eligibility for AFDC, and requires the Secretary to establish safeguards to insure that information is used only for authorized purposes. There is no similar provision for purposes of child support.

Under the Internal Revenue Code, tax return information may be disclosed by IRS (1) to the Social Security Administration for purposes of administering the Social Security Act, and (2) to Federal, State and local child support agencies for establishing and enforcing child support obligations under the child support program. Agencies receiving this information must comply with specified safeguards. SSA may not transfer information it receives from IRS to State and

local agencies. Information must be obtained by the agencies directly from IRS.

Senate bill.—The Senate bill provided the same requirement for disclosure of wage information (other than tax return information) for purposes of the child support program as exists in present law for purposes of AFDC. It also provided the same requirement for provision of wage information by State unemployment compensation agencies for purposes of the child support program as exists in present law for purposes of AFDC.

The Senate bill required SSA to disclose tax return information obtained from IRS with respect to earnings from self-employment and wages (1) to officers and employees of HHS, and (2) to officers and employees of an appropriate State or local agency, body, or commission. Information could be disclosed for purposes of establishing, determining, and enforcing child support obligations under the child support program.

Agencies or commissions authorized to receive tax return information could disclose such information to any person to the extent necessary in connection with the processing and use of information necessary for the purpose of establishing, determining, or enforcing child support obligations.

Conference agreement.—Under the conference agreement, certain tax return information must be disclosed by the Social Security Administration to State and local child support enforcement agencies, as follows.

The conferees agreed to amend the Internal Revenue Code to provide that, upon written request, the Commissioner of Social Security shall directly disclose return information with respect to net earnings from self-employment, wages, and payments of retirement income to officers and employees of a State or local child support enforcement agency. Disclosure will be allowable only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating individuals owing child support obligations.

Any agency receiving information must comply with conditions specified in current law for safeguarding information. Under these safeguards, information may be used on a computer in uncoded form if the computer is used only by the child support enforcement agency. If this information is used on computer systems shared with agencies which are not child support agencies, it must be introduced into the system and coded so that it is available only to officers and employees of the child support enforcement agency. Generally, disclosure to individuals other than officers and employees of the child support enforcement agency would not be authorized; however, the information may be disclosed to the taxpayer to whom the information pertains. This provision is effective on enactment.

In addition, the conferees agree to amend title III of the Social Security Act, Grants to States for Unemployment Compensation Administration, to require the State agency administering the unemployment compensation program to disclose directly, upon request and on a reimbursable basis, to officers or employees of any State or local child support enforcement agency any wage information contained in

the records of the State agency. The agency is also required to establish safeguards necessary (as determined by the Secretary of Labor in regulations) to insure that information is used only for purposes of establishing, and collecting child support obligations from, and locating, individuals owing such obligations. If the Secretary of Labor finds that the State agency has failed to comply with requirements of this provision, he must notify the agency that further payments of administrative costs will not be made to the State until he is satisfied that there is no longer any such failure. The provision is effective July 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

Relationship Between Social Security and SSI Benefits

(Sec. 501)

Present law.—Under existing law, an individual eligible under both the OASDI and SSI programs, whose determination of eligibility for OASDI is delayed, can in some cases receive full payment under both programs for the same months. Because SSI benefits are determined on a quarterly basis, retroactive OASDI benefits are counted as income for purposes of reducing SSI benefits only for the quarter in which retroactive benefits are received.

Senate bill.—The Senate bill would require the Secretary to offset, against retroactive benefits under OASDI, amounts of SSI benefits paid for the same period. The amount of the offset would equal the amount of SSI that would not have been paid had OASDI benefits been paid on time. From the amount of social security benefits offset under the provision, States would be reimbursed for any amounts of State supplementary payments that would not have been paid; the remainder would be credited to general revenues.

Conference agreement.—The conference agreement follows the Senate bill effective with the 13th month after the month of enactment. The conferees do not intend that this adjustment of benefit amounts will have the effect of removing any individual on a retroactive basis from his status as an eligible individual under the SSI program.

Extension of the Term of the National Commission on Social Security

(Sec. 502)

Present law.—The terms of the members of the National Commission on Social Security are to last 2 years, and the Commission itself will expire on January 11, 1981.

Senate bill.—The Senate bill extended for 3 months the expiration date of the National Commission on Social Security and the terms of its members. Under the Senate provision, the Commission's work and the terms of its members would end on April 1, 1981, and its final report will be due on January 11, 1981.

Conference agreement.—The conference agreement follows the Senate bill. The conferees request that the National Commission also examine and report on the serious administrative problems currently facing the Social Security Administration which include growing program responsibility without adequate staffing and the effect of the three reorganizations within the last five years.

Depositing of Social Security Contributions with Respect to State and Local Covered Employment

(Sec. 503)

Present law.—Since 1951 coverage of State and local government employment has been provided through voluntary agreements between the Federal government and the individual States. The Social Security Act provides that the regulations of the Secretary shall be designed to make the deposit requirements imposed on the States the same, as far as practicable, as those imposed on private employers. Present regulations, in effect since 1959, require each State to deposit contributions with the Federal Reserve Bank and file wage reports of covered employees within 1 month and 15 days after the close of each calendar quarter.

Public Law 94–202 was enacted in 1976 to assure adequate consideration of any change in the deposit requirements. Public Law 94–202 requires that at least 18 months must elapse between the publication of regulations changing the deposit schedule and the effective date of the change.

On November 20, 1978, the Department published final regulations to become effective July 1, 1980, which will require more frequent deposits by the States. The new regulations will require the States to make deposits within 15 days after the end of each of the first 2 months of the calendar quarter and within 1 month and 15 days after the end of the final month of the quarter.

Senate bill.—The Senate bill required that, in lieu of the schedule of deposits called for in the regulation, effective July 1, 1980 the States would make deposits within 30 days after the end of each month. The provisions of P.L. 94–202 would not be applicable to changes in regulations that are designed to carry out this statutory change.

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

Aliens Receiving SSI

(Sec. 504)

Present law.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law." An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported by a "sponsor" in the United States. Legal aliens are eligible for SSI payments 30 days after their arrival in the United States.

Senate bill.—The Senate bill required an alien to reside in the United States for 3 years before he would be eligible for SSI. The provision would not apply to refugees, or to aliens who are suffering from blindness or disability on the basis of conditions which arose after the time they were admitted to the United States. The provision would also not apply in cases in which the support agreement is unenforceable under the Immigration and Nationality Act, or in cases in which the

sponsor fails to provide support and the alien demonstrates to the satisfaction of the Attorney General that he did not participate in fraud or misrepresentation on the part of the sponsor, that he believed that the sponsor had adequate resources to support him, and that he could not have reasonably foreseen the refusal or inability of the sponsor to comply with the support agreement.

The Senate bill would amend the Immigration and Nationality Act to make the sponsor's affidavit of support a legally enforceable contract. The sponsor must agree that for 3 years after admission of the alien he will provide such financial support (or equivalent in-kind support) as is necessary to maintain the alien's income at an amount equal to the amount the alien would receive if he were eligible for SSI (including any State supplementary payment). The agreement could be enforced with respect to an alien against his sponsor in a civil action brought by the Attorney General or by the alien in a U.S. District Court. It could also be enforced by any State or political subdivision which is making payments to the alien under any program based on need. In the latter case, the action could be brought in a U.S. District Court if the amount in controversy were $10,000 or more, or in the State courts without regard to the amount in controversy. The agreement could be excused and unenforceable under certain specified circumstances, including death or bankruptcy of the sponsor. Also, the Senate bill provided that a sponsor who intentionally reduces his income or assets in order to be excused from his agreement would be responsible for the repayment of any public assistance provided the alien during the time the agreement was excused.

Conference agreement.—The conferees agreed that for purposes of eligibility for Supplemental Security Income (SSI) benefits, legally admitted aliens who apply for SSI benefits after September 30, 1980 will be deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States, unless the alien becomes blind or disabled after entry. Under the agreement the eligibility of such aliens for SSI will be contingent upon their obtaining the cooperation of their sponsors in providing the necessary information to Social Security to carry out this provision. The provision would not apply to any alien who is (1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; (2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act; (3) paroled into the United States as a refugee under section 212(d)(5) of such Act; or (4) granted political asylum by the Attorney General.

During the 3 years after entry into the United States, an alien may be eligible for SSI benefits only if his sponsor agrees to and does provide such information as the Secretary of Health and Human Services may require to carry out this provision. The alien and sponsor shall be jointly and severably liable to repay any SSI benefits which are incorrectly paid because of the sponsor's providing of misinformation or because of his failure to report, and any such incorrect payments which are not repaid would be withheld from any subsequent payments for which the alien or sponsor are otherwise eligible under the Social Security Act.

In deeming a sponsor's income to an alien under this provision, the alien's SSI benefit would be reduced by the amount of any income deemed to him. Income deemed to the alien would be considered unearned income and would thus result in a dollar-for-dollar reduction in benefits (subject to the $20 a month unearned income exclusion). The amount to be deemed would be equal to the gross income of the sponsor and his spouse reduced by an amount equal to a full SSI benefit for the sponsor and an amount equal to one-half of a full SSI benefit for each other person for whom the sponsor is legally responsible. (Income of a child, e.g., AFDC or SSI payments, which is specifically provided to or on behalf of a child in the household of the sponsor would not be included.) Except for the deeming provision, the alien's SSI benefit would be computed in the same manner as under existing law except that in-kind support and maintenance received by an alien living in the household of the sponsor (or sponsor's spouse) shall not result in the application of the one-third reduction. Income in the form of support or maintenance in cash or kind by the sponsor (or sponsor's spouse) would not be counted as income or resources to the extent such income or resources is taken into account in determining the amount of income and resources to be deemed from the sponsor to the alien.

On the same basis, the assets of the sponsor and his spouse would be determined as under SSI. Any resources in excess of this amount allowable under SSI ($1,500 if the sponsor is single, $2,250 for a couple) would be considered to be resources of the alien in addition to whatever resources the alien has in his own right.

Under the conference agreement, an alien applying for SSI would be required to make available to the Social Security Administration any documentation concerning his income or resources or those of his sponsor (if he has one) which he provided in support of his immigration application. The Secretary of Health, and Human Services would also be authorized to obtain copies of any such documentation from other agencies (i.e., State Department or Immigration and Naturalization Service). The Secretary of HHS would also be required to enter into cooperative arrangements with the State Department and the Justice Department to assure that persons sponsoring the immigration of aliens are informed at the time of sponsorship that, if the alien applies for public assistance, the sponsorship affidavit will be made available to the public assistance agency and the sponsor may be required to provide further information concerning his income and assets in connection with the alien's application for assistance.

Work Incentive and Other Demonstration Projects under the Disability Insurance and Supplemental Security Income Programs

(Sec. 505)

Present law.—The Secretary of Health and Human Services has no authority to waive requirements under titles II, XVI, and XVIII of the Social Security Act to conduct experimental or demonstration projects.

House bill.—The House bill authorized waiver of benefit requirements of the DI and medicare programs to allow demonstration proj-

ects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, and required periodic reports and a final report on the findings by January 1, 1983.

Senate bill.—The Senate bill contained a similar provision but required an interim report by January 1, 1983 and final one by 5 years after the date of enactment. The provision further authorized experiments and demonstration projects which were likely to promote the objectives or improve the administration of the SSI program. The provision provided for allocation of costs of all such demonstration projects to the programs to which the project was most closely related. In the case of the SSI program, the Secretary was authorized to reimburse the States for the non-Federal share of payments or costs for which the State would not otherwise be liable.

The Senate provision also authorized waivers in the case of other disability insurance demonstration projects which SSA wished to undertake, such as study of the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation.

The Senate bill further authorized waiver of certain nonmedical requirements of the human experimentation statue, P.L. 93–348 (such as conditions of payment of benefits or copayments, deductibles or other limitations), but requires that the Secretary in reviewing any application for any experimental, pilot or demonstration project pursuant to the Social Security Act would take into consideration the human experimentation law and regulations in making his decision on whether to approve the application.

Conference agreement.—The conferees agreed to the provisions of the House and Senate bills with the exception of the Senate provision authorizing waiver of certain nonmedical requirements of the human experimentation statute. This latter provision was deleted.

With respect to SSI experiments, the Secretary would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his participation in the project. The Secretary could not require an individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at any time his voluntary agreement to participate. The Secretary, to the extent feasible, would be required to include recipients under age 18. The Secretary would also be required to include projects necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability.

The new provisions would be applicable to both applicants and beneficiaries, and would be effective upon enactment.

Provisions Relating to the Terminally Ill

(Sec. 506)

Present law.—Under the OASDI program the waiting period is the earliest period of 5 consecutive months in which an individual is under a disability. An individual is determined disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for not less than 12 months. If an individual becomes disabled and applies for benefits in the same month, the waiting period will be satisfied 5 months after the month of application. With all other conditions of eligibility having been met, benefits will be due for the sixth month after the month in which the disabling condition begins, and will be paid on the third day of the seventh month.

The waiting period cannot begin until the individual is insured for benefits (i.e., the individual has satisfied the quarters of coverage requirements). If the disabling condition begins before an individual is insured for benefits, the waiting period can begin only with the first month in which the individual has insured status.

If a worker is applying for benefits after having been entitled to DI benefits previously (or had a previous period of disability) within 5 years prior to the current application, the waiting period requirement does not have to be met again.

Senate bill.—The Senate bill eliminated the waiting period for persons with a terminal illness, i.e., a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations.

The provision was to be effective for applications filed in or after the month of enactment, or for disability decisions not yet rendered by the Social Security Administration or the courts prior to the month of enactment.

Benefits would be payable beginning October 1980.

Conference agreement.—The conferees did not agree to the Senate provision eliminating the waiting period for persons with a terminal illness, but in lieu thereof agreed to a provision authorizing up to $2 million a year to be used by SSA for the purpose of participating in a demonstration project relating to the terminally ill which is currently being conducted by the Department of Health and Human Services. The purpose of participation is to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration. It is expected that this demonstration authority and the resulting reports which will be made on demonstration projects will provide the information necessary to enable the Congress to amend the Social Security Act so as to provide the kinds of services most appropriate for individuals who are suffering from terminal illnesses.

Voluntary Certification of Medicare Supplemental Health Insurance

(Sec. 507)

Present law.—No provision in present law.

Senate bill.—Under the Senate bill, the Secretary would be required to establish, effective January 1, 1982, a voluntary certification program for medicare supplemental policies in States that fail to establish equivalent or more stringent programs. To be certified, a policy would have to: meet minimum standards with respect to benefits, simplicity of policy language, informational material for policyholders, preexisting conditions and cancellation clauses; and be expected to pay benefits to subscribers (as estimated, for a period not to exceed one year, on the basis of actual claims experience and premiums for such policy) equal to 75 percent of premiums in the case of group policies and 60 percent in the case of individual policies. The Secretary would be required to submit a report on or before July 1, 1981, to the Committees on Finance, Ways and Means, and Interstate and Foreign Commerce which identifies those States that the Secretary finds cannot be expected to have established a qualified State regulatory program by January 1, 1982. The Federal voluntary certification program would be put into effect on January 1, 1982, in States that are so identified unless legislation to the contrary is enacted.

Upon conviction, a fine of up to $25,000 and imprisonment for up to 5 years could be assessed for: (a) furnishing false information to obtain the Secretary's certification; (b) posing as a Federal agent to sell medicare supplemental policies; (c) knowingly selling duplicative policies; and (d) selling supplemental policies by mail in States which have not approved, or are deemed not to have approved, their sale.

The Secretary, in consultation with regulatory agencies, insurers and consumers, would be required to study and submit a report to the Congress by July 1, 1981, concerning the effectiveness of various State approaches to regulation of medicare supplemental policies, and the need for standards for health insurance policies sold to the elderly which are not subject to voluntary certification. On January 1, 1982, and at least every 2 years thereafter, the Secretary would be required to report on the effectiveness of the voluntary certification program and the criminal penalties established by the bill.

Conference agreement.—The conference agreement follows the Senate bill with the following modifications. The voluntary certification program would be effective July 1, 1982. To be certified under this program, a medicare supplemental policy (including any certificate issued thereunder) would have to: (a) meet or exceed the standards with respect to medicare supplemental policies set forth in the "NAIC Model Regulation to Implement the Individual Accident and Sickness Minimum Standards Act," as amended and adopted by the National Association of Insurance Commissioners on June 6, 1979 (including the standards relating to minimum benefit provisions, preexisting condition limitations, full disclosure, and requiring a no loss cancellation clause); and (b) be expected to pay benefits to subscribers (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims ex-

perience and earned premiums for such period) equal to 75 percent of premiums in the case of group policies and 60 percent in the case of individual policies. (For purposes of determining whether the loss ratio requirement has been met under the voluntary certification program, policies issued as a result of solicitations of individuals through the mails or by mass media advertising would be deemed to be individual policies.) The Secretary would be empowered to authorize the use of an emblem by an insurer, in accordance with conditions to be specified by the Secretary, to indicate that a policy has been certified as meeting the standards and requirements of the voluntary certification program. It is expected that one such condition will be a requirement that the insurer agree to notify policyholders of the loss of certification in the event the Secretary determines that the policy no longer satisfies the standards and requirements of the voluntary certification program. It is also expected that the Secretary act in a manner consistent with the will of the State to prevent unfair competition in the use of the emblem.

The voluntary certification program would not be applicable to any policy issued in any State which is determined to have implemented under State law a regulatory program that provides for the application of standards with respect to all medicare supplemental policies (as defined in the Senate bill) that are equal to or more stringent than the standards relating to medicare supplemental policies contained in the NAIC Model Regulation as amended and adopted on June 6, 1979; and the loss ratio requirements for individual or group policies applied under the voluntary certification program. Such determinations as to whether a State's regulatory program meets these standards and requirements would be made by a Supplementary Health Insurance Panel, appointed by the President, and consisting of four Insurance Commissioners (or Superintendents) and the Secretary. On or before January 1, 1982, the Panel would prepare a report (for inclusion in the report to be submitted by the Secretary on January 1, 1982) to the appropriate Committees of the House and the Senate identifying those States that the Panel finds cannot be expected to have implemented a qualified regulatory program by July 1, 1982. The Federal voluntary certification program would be put into effect on July 1, 1982, in those States so identified by the Panel. Where a State which the Panel had expected to have implemented a qualified regulatory program by July 1, 1982, has not actually done so, the voluntary certification program would be applicable to such State until the panel determines and reports to the Secretary that the State has implemented an approved program. It is expected that the Panel will act promptly and that all determinations of the Panel would be promptly submitted to the Secretary for implementation.

Although the Panel's sole responsibility is to evaluate State regulatory programs against the test that the State program is at least equal to the NAIC standards and the prescribed loss ratio requirement, the bill includes language referring to "more stringent" standards. However, this language was not included for use as a benchmark by the Panel, but rather only to avoid the implication of any intent to encourage States to limit their regulatory programs to the minimal level. On the contrary, the conferees' intent is to assure that States are encouraged to implement such regulatory programs as they determine are

appropriate to their needs and that if a State regulatory program is at least equal to the standards and requirements provided for in the bill it would be approved by the Panel.

The delivery of a medicare supplemental policy by mail into a State which has not approved the sale of such a policy in the State would be subject to Federal criminal penalties unless such policy: (a) has been certified by the Secretary or approved by the State in which the policy is issued as meeting the standards and requirements of the voluntary certification program or the State's approved regulatory program, as the case may be, or has otherwise been deemed approved in accordance with provisions of the bill; and (b) the State into which the policy has been delivered has not specifically disapproved the policy for sale in the State.

The conferees have defined the place of issuance of a policy to be the State in which the policyholder resides in the case of an individual policy, and the State in which the holder of the master policy resides in the case of a group policy. The intent of the conferees is to allow an insurer to know which State its policy is considered to be issued in, and consequently to know whether it is issued in a State having an approved program. Nothing in this provision is intended to affect the rights of any State to regulate, in accordance with State law, policies which, under this definition, are considered to be issued in another State.

The Senate bill excludes group health policies of one or more employers or labor organizations from the definition of "medicare supplemental policy," and from the prohibition of knowingly selling a duplicative health insurance policy to a medicare-eligible individual, since such policies are not designed as supplemental policies and are sold to all age categories within the group's membership. The conferees recognize that many professional, trade and occupational associations also offer group health plans to their respective memberships. The intent is that such association, should not be treated differently than employers or labor organizations if the association: (a) is composed of individuals all of whom are actively engaged in the same profession, trade or occupation; (b) has been maintained in good faith for purposes other than the obtaining of insurance; and (c) has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members.

The Secretary's report on the results of the required study of State approaches to the regulation of supplementary policies would be submitted on January 1, 1982; and the first of the periodic reports on the effectiveness of the voluntary certification program and the criminal penalties would be due July 1, 1982.

Inclusion in Wages of FICA Taxes Paid by the Employer

Present law.—Sec. 209(f) of the Social Security Act and Sec. 3121 (a)(6) of the Internal Revenue Code provide that payment by the employer of the employee F.I.C.A. tax liability is excluded from the definition of wages for social security payroll tax and benefit purposes. Although such a payment by the employer constitutes additional compensation includable for income tax purposes, existing law specifically exempts such an amount of additional compensation from social se-

curity taxes. The net effect is that, for a given level of total compensation (wages plus employer payment of the employee share of social security tax), somewhat lower social security taxes would be payable by the employer if he pays the employee F.I.C.A. tax instead of withholding it from the employee's wages.

Senate bill.—The Senate bill required that, with respect to remuneration paid after 1980, any amounts of employee F.I.C.A. taxes paid by an employer will be considered to constitute wages for both social security tax and benefit purposes but that this change will not apply in the case of payments made on behalf of employees of (1) small businesses (as used in the administration of section 7(a) of the Small Business Act), (2) of State and local governments, (3) of nonprofit organizations, and (4) persons employed as domestics.

Conference agreement.—The conferees have agreed to delete this provision of the Senate bill. While the Senate amendment would narrow the scope of the present law exclusion from wages, the conferees are concerned that its enactment would lend countenance to expanded utilization of the remaining exclusion. The conferees believe that this is an important issue in its own right, deserving further study and consideration by the Congress. The result of the conferees' decision is that present law remains in force.

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