SOCIAL SECURITY RETIREMENT TEST

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

H.R. 5295, S. 248, S. 1287, S. 1418, S. 1498, S. 1554, S. 2034, S. 2083, S. 2208

APRIL 21, 1980

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SOCIAL SECURITY RETIREMENT TEST

MONDAY, APRIL 21, 1980

U.S. SENATE,
SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:10 p.m. in room 2221, Dirksen Senate Office Building, Hon. Gaylord Nelson (chairman of the subcommittee) presiding.

Present: Senators Nelson and Dole.

[The press releases announcing this hearing and the bills H.R. 5295, S. 248, S. 1287, S. 1418, S. 1498, S. 1554, S. 2034, S. 2083, and S. 2208 follow:]

Press Release # H-16

PRESS RELEASE

FOR IMMEDIATE RELEASE
March 14, 1980

UNITED STATES SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON SOCIAL SECURITY
2227 Dirksen Senate Office Bldg.

FINANCE SUBCOMMITTEE ON SOCIAL SECURITY TO HOLD HEARINGS ON PENDING LEGISLATION RELATED TO THE SOCIAL SECURITY RETIREMENT TEST

The Honorable Gaylord Nelson (D., Wis.), Chairman of the Finance Subcommittee on Social Security, today announced that the Subcommittee will hold a hearing on H.R. 5295 and other pending legislation related to the Social Security retirement test.

The hearing will be held starting at 10:00 a.m. on Thursday, April 3, 1980 in Room 2221 Dirksen Senate Office Building.

Senator Nelson noted that the 1977 Amendments to the Social Security Act repealed the monthly exception to the social security annual retirement test. Under this former monthly exception, full social security benefits were payable for any month in which individuals had no significant employment activity, even if their social security benefits would otherwise have been reduced because of annual earnings. The elimination of the monthly exception created unforseen problems as a result of its retroactive impact and the special circumstances associated with the treatment of self-employment income. This change adversely affected insurance agents, certified public accountants, teachers, dentists, and various other groups.

Legislation to correct this unintended effect of the 1977 amendments and for making the remedial legislative changes retroactive to the beginning of 1978 when the law became operative has been passed by the House of Representatives. This legislation (H.R. 5295) was referred in the Senate to the Committee on Finance.

The Subcommittee hearing will examine the House-passed bill along with all other bills related to the retirement test which have been referred to the Committee, including S.248, S.1287, S.1418, S.1498, S.1554, S.2034, S.2083, and S.2208.

Requests to testify.--Chairman Nelson stated that witnesses desiring to testify at the hearing must make their requests to testify to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on March 21, 1980. Witnesses who are scheduled to testify will be notified as soon as possible after this date as to when they will appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. Chairman Nelson also stated that the Subcommittee strongly urges all witnesses who have a common position or the same general interest to consolidate their testimony and to designate a single spokesman to present their common viewpoint to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain.

Legislative Reorganization Act.--Chairman Nelson stated that the Legislative Reorganization Act of 1946 requires all witnesses appearing before the Committees of Congress to "file in advance written statements of their proposed testimony and to limit their oral presentation to brief summaries of their argument." Senator Nelson stated that, in light of this statute, the number of witnesses who desire to appear before the Subcommittee, and the limited time available for the hearings,

all witnesses who are scheduled to testify must comply with the following rules:

(1) A copy of the statement must be delivered to Room 2227 Dirksen Senate Office Building, not later than 5:00 p.m. on Tuesday, April 1, 1980.

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

(3) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be delivered to Room 2227, Dirksen Senate Office Building, not later than noon on Wednesday, April 2, 1980.

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

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

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

Written statements.--Persons not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. Written testimony for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with 5 copies to Michael Stern, Staff Director, Senate Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than April 30, 1980.

P.R. # H-16

Press Release # H-20

PRESS RELEASE

FOR IMMEDIATE RELEASE
March 21, 1980

UNITED STATES SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON SOCIAL SECURITY
2227 Dirksen Senate Office Bldg.

FINANCE SUBCOMMITTEE ON SOCIAL SECURITY
ANNOUNCES CHANGE OF DATE FOR HEARING
ON SOCIAL SECURITY RETIREMENT TEST LEGISLATION

The Honorable Gaylord Nelson (D., Wis.), Chairman of the Finance Subcommittee on Social Security, today announced a change in the scheduled date for a hearing to be held by the Subcommittee on H.R. 5295 and other pending legislation related to the Social Security retirement test. (This hearing was announced in Finance Committee press release no. H-16, issued March 14, 1980.)

The hearing will be held starting at 2:00 p.m. on Monday, April 21, 1980 in Room 2221 Dirksen Senate Office Building.

Senator Nelson noted that the 1977 Amendments to the Social Security Act repealed the monthly exception to the social security annual retirement test. Under this former monthly exception, full social security benefits were payable for any month in which individuals had no significant employment activity, even if their social security benefits would otherwise have been reduced because of annual earnings. The elimination of the monthly exception created unforeseen problems as a result of its retroactive impact and the special circumstances associated with the treatment of self-employment income. This change adversely affected insurance agents, certified public accountants, teachers, dentists, and various other groups.

Legislation to correct this unintended effect of the 1977 amendments and for making the remedial legislative changes retroactive to the beginning of 1978 when the law became operative has been passed by the House of Representatives. This legislation (H.R. 5295) was referred in the Senate to the Committee on Finance.

The Subcommittee hearing will examine the House-passed bill along with all other bills related to the retirement test which have been referred to the Committee, including S.248, S.1287, S.1418, S.1498, S.1554, S.2034, S.2083, and S.2208.

Requests to testify.--Chairman Nelson stated that persons who have submitted requests to testify on the previously scheduled date in accordance with the March 14 press release will be notified and their requests will be considered to apply to the new hearing date.

Written statements.--Persons not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. Written testimony for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with 5 copies to Michael Stern, Staff Director, Senate Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510. The deadline for submitting written statements is extended to May 9, 1980.

96TH CONGRESS
1ST SESSION

H. R. 5295

IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 15), 1979
Read twice and referred to the Committee on Finance

AN ACT

To amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 203(f)(1) of the Social Security Act is amended—

(A) by striking out "or" immediately before clause (E), and

(B) by inserting before the period at the end thereof the following: ", or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection) or under section 202 (d) or (g), if such month is in a year in which such entitlement ends".

(2) Section 203(f)(2) of such Act is amended by striking out "(D), and (E)" and inserting in lieu thereof "(D), (E), and (F)".

(b) The amendments made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

SEC. 2. (a) Section 226(a)(2) of the Social Security Act is amended by inserting after "section 202" the following: ", or would be entitled to these benefits except that he has not filed an application therefor (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor) and, in conformity with reg-

ulations of the Secretary, files an application for hospital insurance benefits under part A of title XVIII,".

(b) Section 1811(1) of such Act is amended by striking out "are entitled to" and inserting in lieu thereof "are eligible for".

(c) For purposes of section 226 of such Act as amended by subsection (a) of this section, an individual who filed an application for monthly insurance benefits under section 202 of such Act prior to the effective date of the amendment made by subsection (a) shall be deemed to have filed an application for hospital insurance benefits under part A of title XVIII of such Act, at the time he applied for such benefits under section 202 regardless of the continuing status or effect of the application for benefits under section 202, if he would have been entitled to benefits under that section had such application remained in effect.

(d) The amendments made by subsections (a) and (b) shall be effective after the second month beginning after the date on which this Act is enacted.

SEC. 3. (a) Section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of—

"(i) an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secre-

tary that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or.

"(ii) an individual who has become entitled to old-age insurance benefits, and who shows to the satisfaction of the Secretary that he or she is receiving any other income attributable to services performed before the month in which he or she initially became entitled to such benefits,

there shall be excluded from gross income any such royalties or other income.";

(b) The amendment made by subsection (a) shall apply with respect to months after December 1977.

SEC. 4. (a) Section 203(f)(1) of the Social Security Act is amended by striking out "the first month" in clause (E) and inserting in lieu thereof "the first month after December 1977".

(b) The amendment made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

Passed the House of Representatives December 19, 1979.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

By BENJAMIN J. GUTHRIE,
Assistant to the Clerk.

96TH CONGRESS
1ST SESSION

S. 248

To amend title II of the Social Security Act so as to modify the criteria respecting certain self-employment income, derived from the sale of certain agricultural or horticultural commodities, for purposes of the social security retirement test.

IN THE SENATE OF THE UNITED STATES

JANUARY 29 (legislative day, JANUARY 15), 1979

Mr. DOLE introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend title II of the Social Security Act so as to modify the criteria respecting certain self-employment income, derived from the sale of certain agricultural or horticultural commodities, for purposes of the social security retirement test.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(5) of the Social Security Act is amended—

(1) in subparagraph (B)(i), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraphs (D) and (E)", and

2

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

"(E) For purposes of this subsection, there shall be excluded from the gross income of any individual any amount received by him during any taxable year which ends after December 31, 1977, if—

"(i) such amount constitutes net earnings from self-employment of such individual derived from his engagement in a trade or business which, if such trade or business were carried on exclusively by employees, the major portion of the services involved in the carrying out of such trade or business would constitute agricultural labor as defined in section 210(f),

"(ii) such amount is derived from the sale of agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) produced prior to such taxable year in such trade or business,

"(iii) during such taxable year such individual did not render any substantial services (as determined pursuant to methods and criteria which the Secretary shall by regulations prescribe) with respect to any trade or business described in clause (i), and

"(iv) no amount has been excluded from such individual's gross income pursuant to this subparagraph (E), for any preceding taxable year.".

O

II

96TH CONGRESS
1ST SESSION

S. 1287

To repeal the earnings ceiling of the Social Security Act for all beneficiaries age sixty-five or older.

IN THE SENATE OF THE UNITED STATES

JUNE 6 (legislative day, MAY 21), 1979

Mr. GOLDWATER (for himself, Mr. STONE, Mr. PRESSLER, Mr. DECONCINI, and Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To repeal the earnings ceiling of the Social Security Act for all beneficiaries age sixty-five or older.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(8)(A) of the Social Security Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are" and inserting in lieu thereof "the new exempt amount which is".

(b)(1) Section 203(f)((8)(B) of such Act is amended by striking out "Except as otherwise provided in subparagraph

(D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the corresponding exempt amount" and inserting in lieu thereof "the exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(c) Section 203(f)(8) of such Act is further amended by striking out subparagraph (D) thereof.

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount".

(e)(1) Subsections (c)(1), (d)(1), (f)(1)(B), and (j) of section 203 of such Act are each amended by striking out "seventy" and inserting in lieu thereof "sixty-five".

(2) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "not shall any deduction be made under this subsection from any widow's or

widower's insurance benefit if the widow, widower, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.".

(3) Clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefit if she or he became so entitled prior to attaining age 60, or".

(4) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(5) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(6) The heading of subsection (j) of section 203 of such Act is amended by striking out "Seventy" and inserting in lieu thereof "Sixty-five".

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1982.

O

II

96TH CONGRESS
1ST SESSION

S. 1418

To amend title II of the Social Security Act to provide that deductions from benefits on account of excess earnings shall not be applicable in the case of social security beneficiaries who have attained age sixty-five.

IN THE SENATE OF THE UNITED STATES

JUNE 27 (legislative day, JUNE 21), 1979

Mr. JEPSEN introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend title II of the Social Security Act to provide that deductions from benefits on account of excess earnings shall not be applicable in the case of social security beneficiaries who have attained age sixty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(8)(A) of the Social Security Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are" and inserting in lieu thereof "the new exempt amount which is".

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the corresponding exempt amount" and inserting in lieu thereof "the exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(c) Section 203(f)(8) of such Act is further amended by striking out subparagraph (D) thereof.

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount".

(e)(1) Subsections (c)(1), (d)(1), (f)(1)(B), and (j) of section 203 of such Act are each amended by striking out "seventy" and inserting in lieu thereof "sixty-five".

(2) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all

that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, widower, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.".

(3) Clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefit if she or he became so entitled prior to attaining age 60, or".

(4) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(5) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(6) The heading of subsection (j) of section 203 of such Act is amended by striking out "Seventy" and inserting in lieu thereof "Sixty-five".

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1979.

O

II

96TH CONGRESS
1ST SESSION

S. 1498

To amend title II of the Social Security Act to provide an alternative retirement test for certain individuals receiving self-employment income substantially attributable to their activities in a preceding taxable year.

IN THE SENATE OF THE UNITED STATES

JULY 12 (legislative day, JUNE 21), 1979

Mr. MATSUNAGA introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend title II of the Social Security Act to provide an alternative retirement test for certain individuals receiving self-employment income substantially attributable to their activities in a preceding taxable year.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(5) of the Social Security Act is amended—

(1) in subparagraph (B)(i), by striking out "shall be determined" and inserting in lieu thereof "shall (subject to subparagraph (E)) be determined", and

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

"(E)(i) If, of the total of an individual's net earnings from self-employment for any taxable year, an amount equal to at least 50 per centum thereof is substantially attributable to such individual's engagement in self-employment for a period prior to such year, such amount shall be excluded in determining, for purposes of this subsection, the total of such individual's net earnings from self-employment for such year.

"(ii) If, during any month of a taxable year with respect to which an amount is excluded pursuant to clause (i) from an individual's net earnings from self-employment, such individual—

"(I) renders substantial services with respect to a trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection, but without regard to this subparagraph) his net earnings or net loss from self-employment for such taxable year, or

"(II) renders services for wages (determined as provided in the preceding provisions of this paragraph) of more than the applicable exempt amount as determined under paragraph (8),

such individual shall, for purposes of subsection (c) be deemed to be charged with excess earnings for such month—

"(III) in case such individual is entitled to benefits for such month under a provision of section 202 other than subsection (a) thereof, equal to such individual's benefit or benefits under such section for such month, or

"(IV) in case such individual is entitled to old-age insurance benefits under section 202(a) for such month, equal to such individual's old-age insurance benefit for such month plus the monthly benefits for such month of all other persons under section 202 based on such individual's wages and self-employment income.

Amounts of excess earnings for which an individual is deemed to be charged for any month under this clause shall not operate to reduce the total of the excess earnings for which he is chargeable under this section as determined without regard to this subparagraph.

"(iii) The provisions of this subparagraph shall not be applicable, in the case of any individual for any taxable year, if the application of such provisions would result in the aggregate of the deductions under subsection (c), on account of excess earnings with which such

individual is charged or deemed to be charged, being greater than would have been the case without the application of such provisions.".

(b) The amendments made by subsection (a) shall be applicable, in the case of any individual, only in the case of taxable years of such individual which begin after the date of enactment of this Act.

O

II

96TH CONGRESS
1ST SESSION

S. 1554

To amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test.

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JUNE 21), 1979

Mr. DURKIN introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary—

"(i) that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65, and that the property to which the copyright or patent relates was created by his own personal efforts, or

"(ii) that he is receiving renewal commissions from insurance policies which were sold, in whole or in part, by his own personal efforts before the taxable year in which he attained the age of 65,

there shall be excluded from gross income any such royalties or commissions."

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning January 1, 1978.

O

II

96TH CONGRESS
1ST SESSION

S. 2034

To amend title II of the Social Security Act so as to modify the criteria respecting certain self-employment income for purposes of the social security retirement test.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 15), 1979

Mr. DURENBERGER introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend title II of the Social Security Act so as to modify the criteria respecting certain self-employment income for purposes of the social security retirement test.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(f)(5) of the Social Security Act is amended by amending subparagraph (D) to read as follows:

"(D) In the case of an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary—

"(i) that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65, and that the property to which the copyright or patent relates was created by his own personal efforts, or

"(ii) that he is receiving renewal commissions from insurance policies which were sold, in whole or in part, by his own personal efforts before the taxable year in which he attained the age of 65, there shall be excluded from gross income any such royalties or commissions.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning January 1, 1978.

SEC. 3. To add a new subparagraph (E) to read as follows:

"(E) For purposes of this subsection, there shall be excluded from the gross income of any individual any amount received by him during any taxable year which ends after December 31, 1977, if—

"(i) such amount constitutes net earning from self-employment of such individual derived from his engagement in a trade or business which, if such trade or business were carried on exclusively by employees, the major portion of the services

involved in the carrying out of such trade or business would constitute agricultural labor as defined in section 210(f),

"(ii) such amount is derived from the sale of agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) produced prior to such taxable year in such trade or business,

"(iii) during such taxable year such individual did not render any substantial services (as determined pursuant to methods and criteria which the Secretary shall by regulations prescribe) with respect to any trade or business described in clause (i), and

"(iv) no amount has been excluded from such individual's gross income pursuant to this subparagraph (E), for any preceding taxable year.".

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II

96TH CONGRESS
1ST SESSION

S. 2083

To amend title II of the Social Security Act to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5 (legislative day, NOVEMBER 29), 1979

Mr. THURMOND (for himself and Mr. DOLE) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title II of the Social Security Act to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of—

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

"(ii) an individual who has become entitled to old-age insurance benefits, and who shows to the satisfaction of the Secretary that he or she is receiving any other income attributable to services performed before the month in which he or she initially became entitled to such benefits,

there shall be excluded from gross income any such royalties or other income.".

(b) The amendment made by subsection (a) shall apply with respect to months after December 1977.

II

96TH CONGRESS
2D SESSION

S. 2208

To amend title II of the Social Security Act to provide for a phasing out of the application of the earnings test in the case of individuals age 65 or over.

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 1980

Mr. LAXALT introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title II of the Social Security Act to provide for a phasing out of the application of the earnings test in the case of individuals age 65 or over.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(j) of the Social Security Act is amended to read as follows:

"Exempt Age

"(j)(1) As used in this section, the term 'exempt age', when applied to any individual, means—

"(A) age 70 in the case of a taxable year of such individual which ends in 1980,

"(B) age 69 in the case of a taxable year of such individual which ends in 1981,

"(C) age 68 in the case of a taxable year of such individual which ends in 1982,

"(D) age 67 in the case of a taxable year of such individual which ends in 1983,

"(E) age 66 in the case of a taxable year of such individual which ends in 1984, and

"(F) age 65 in the case of any taxable year of such individual which ends after December 31, 1984.

"(2) For purposes of this section, an individual shall be considered as being of the exempt age during the entire month in which he attains such age.".

(b) Subsections (c)(1) and (d)(1) of section 203 of such Act are each amended by striking out "the age of seventy-two" and inserting in lieu thereof "the exempt age (as defined in subsection (j)(1))".

(c) Subsection (f)(1)(B) of section 203 of such Act is amended by striking out "was age seventy-two or over" and inserting in lieu thereof "was of the exempt age (as defined in subsection (j)(1)) or over".

(d) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 72" and inserting in lieu thereof "the exempt age (as defined in subsection (j)(1))".

(e) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof "the exempt age (as defined in subsection (j)(1))".

(f) The amendments made by this section shall be effective only with respect to taxable years ending after December 31, 1979.

SEC. 2. Section 302 of the Social Security Amendments of 1977 is hereby repealed.

SEC. 3. (a) Section 203(f)(8)(A) of the Social Security Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "a new exempt amount which shall be effective".

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" in the matter preced-

ing clause (i) and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the corresponding exempt amount" and inserting in lieu thereof "the exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(c) Section 203(f)(8) of such Act is further amended by striking out subparagraph (D) thereof.

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount".

(e) The amendments made by this section shall apply only with respect to taxable years ending after December 31, 1984.

Senator NELSON. The Senate Subcommittee on Social Security begins hearings today on legislation concerning the social security retirement test.

Under current law, the retirement test limits the amount of annual earnings social security beneficiaries under the age of 72 are allowed before their social security benefits are reduced. This so-called retirement test permits beneficiaries age 65 and over to have higher annual earnings without loss of benefits than an individual under 65.

In any year, each beneficiary under age 72 may earn an amount described in the statute for that year without any reduction in benefits. If a beneficiary exceeds this exempt amount, then his benefits are reduced by $1 for every $2 of annual earnings above that exempt amount.

For 1980, the exempt amount for an individual under 65 is $3,720 and this amount will be increased each year in proportion to the rise in average earnings taxed for social security. For people age 65 and over, the exempt amount is $5,000 for 1980, $5,500 for 1981, and $6,000 for 1982. Starting in 1983, the amount will rise by the same percentage as the amount for people under 65.

The age at which individuals may receive full benefits without regard to their earnings will be reduced as a result of the 1977 amendments from 72 to 70, beginning in 1982.

Prior to 1978, a social security beneficiary was paid benefits for any month in which earnings did not exceed an exempt amount. In 1977, this exempt amount was $250 a month. The 1977 Social Security Amendments, however, eliminated the monthly retirement test provision starting in 1978, and replaced it with an annual retirement test.

The former monthly retirement test does apply, however, during the year in which a person first begins receiving social security benefits. This means, for example, that an individual earning $30,000 in the first half of 1980, who reaches age 65 in July when he retires, is eligible for social security benefits for the second half of 1980 so long as he does not earn more than the exempt amount, or $416.66 a month, in any month after June. If the annual earnings test were to be applied without this exception, then many wage earners would not be eligible to receive social security benefits in the first few months of actual retirement.

Since adoption of the 1977 legislation, problems with the particular language enacted and related earnings limitation issues have come to the attention of the Congress and the Administration. In 1978, and again in 1979, the Administration submitted proposed legislation to correct certain unintended results related to the elimination of the monthly measure. A number of bills have been introduced in the 96th Congress dealing with that change.

Pending before the committee are a number of bills designed to correct problems which have arisen as the result of the 1977 elimination of the monthly measure. Certain categories of beneficiaries, such as mothers and children, as well as retired workers entitled to medicare, have experienced unintended difficulties as a result of the new provision.

The repeal of the monthly measure also has raised questions of how to treat certain earnings attributable to services performed

prior to retirement. In addition, a number of beneficiaries were adversely affected by the retroactive application of the provision.

Today's hearing will focus on the bills pending before the committee. The subcommittee will receive testimony from Members of Congress, the Administration, and representatives of the insurance industry, educators, farm and other professional groups.

At this point I would like to have inserted in the record the opening statement of Senator Dole.

[The opening statement of Senator Dole follows:]

OPENING STATEMENT OF SENATOR DOLE

Mr. Chairman, the Senator from Kansas is very appreciative of your efforts to provide a forum for the discussion of legislation related to the Social Security Retirement Test. I have been extremely concerned about the unintended effects of elimination of the monthly measure for some time and also have a longstanding interest in the question of the complete elimination of the retirement test.

The problems brought about by elimination of the monthly measure were first brought to my attention by Kansas farmers, many of whom sell their crops in the year following their retirement. The shift from a monthly to an annual retirement test in the 1977 Social Security Amendments caused a serious inequity for a number of retired farmers, and I introduced S. 248 to correct that defect for farmers. Later, recognizing that there are other self-employed individuals, such as insurance agents, lawyers and accountants, who are equally impacted by the adverse effects of the 1977 amendments, I cosponsored a bill with Senator Thurmond to remedy the problem for all self-employed persons.

The real test for retirement purposes should be when the money was actually earned, not when the money comes in, and several of the bills before us are designed to insure that the test is applied in that way. It is particularly unconscionable that we are hurting individuals who were wise enough to realize that they would need to combine deferred income, Social Security Benefits and possibly other funds in order to meet all their needs during retirement. Therefore, it is important that we move as quickly as possible to revise the test so that those who are receiving deferred income for services performed prior to retirement will not continue to suffer an unfair reduction in their retirement income.

Of course, there are groups other than self-employed individuals who are adversely affected by the elimination of the monthly measure as well. I understand the house-passed bill, H.R. 5295, is designed to meet the needs of all the groups, and I look forward to hearing the testimony on that bill and other legislation on this issue which is pending before the committee.

At the time the 1977 Social Security Amendments were considered on the floor of the Senate, I supported the complete removal of the social security earnings limitation and I have not lost my enthusiasm for the proposal. It is certainly unfair to force individuals to retire at the age of 65; instead we should encourage them to continue to be as active and productive as possible.

I do think we have more economic constraints now than we did in 1977, and that may require us to put some limitation on how far we go in raising the earnings limit. For that reason I am especially interested in hearing testimony concerning the revenue effect of removing the earnings limitation and its resulting offset against the cost of the proposal. We have to be sure that we do not jeopardize the financial health of the social security system or create the need for additional taxes which are already a heavy burden on workers.

Mr. Chairman, these issues are important ones which need our attention, and I commend you for calling this hearing.

Thank you, Mr. Chairman.

Senator NELSON. Our first witnesses consist of a panel with Senator Goldwater, Senator DeConcini, Senator Pressler and Senator Jepsen, accompanied by Prof. Anthony Pellechio.

Go ahead, gentlemen. How do you wish to present your testimony?

STATEMENT OF HON. BARRY GOLDWATER, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator GOLDWATER. Mr. Chairman, I wanted to personally thank you for your great courtesy in scheduling the hearing for today so that I might appear before you.

Strange as it seems, there has never before been a congressional hearing solely addressing the earnings ceiling on social security benefits, and I applaud your decision to give me and others an opportunity today to focus on this anomaly in the old-age insurance program. I believe that the earnings test should be repealed at age 65, which is the traditional age of entitlement to full benefits.

The bill I have introduced with Senators Bayh, DeConcini, Pressler, and Stone as coauthors will do just that. S. 1287 will repeal the earnings ceiling for all persons age 65 and older beginning in January of 1983.

We are joined by 15 other Senators who have copsonsored S. 1287, and I ask that the text of the bill and all 20 sponsors may appear at the conclusion of my remarks.

Senator Jepsen has also introduced repeal legislation. I am a cosponsor of his bill. He is a cosponsor of S. 1287.

Mr. Chairman, the law now discriminates against more than 11 million citizens aged 65 to 72. If persons of this age wish to or must continue working, they must pay a surtax of 50 percent. They lose $1 of social security for every $2 of wages on all income earned over $5,000 until their benefits are cut entirely.

This tax of 50 percent is in addition to any Federal, State, county or city income taxes they will have to pay; and the penalty is on top of continued social security taxes collected from aged workers whether or not they receive benefits.

Mr. Chairman, the law has been improved. An amendment which I offered in 1977, as modified by the substitute amendment of Senator Church, increased the ceiling in stages from $3,000 to $6,000 and lowered the exempt age to 70 from 72. This amendment will be fully effective in 1982.

But I want to go a step beyond the 1977 amendments. The sponsors of S. 1287 want to repeal the ceiling entirely.

We believe the money older persons pay into social security is theirs. It does not belong to the Government and the Government should have no say in how it is paid back. The Government's only responsibility is to pay it back; whether older persons earn extra money or not has nothing to do with it.

And don't let anyone tell you, Mr. Chairman, that the working person does not bear the entire burden of the social security tax. As Prof. William C. Mitchell has written: "Whatever the fiscal illusions involved, the tax on the employer is actually a tax on labor; he passes on his share of the tax to the workers in the form of lower wages."

Professor Mitchell adds: "The real social security tax on the individual worker is not the 5.85 percent the law stipulates, but double that amount."

In 1982, that tax will be even higher, for a combined tax rate of 13.4 percent. The tax base of workers will have been increased 8 times and their tax rates 13 times.

In the words of our former colleague, the late Senator Paul Douglas, who was a professor of economics and a consultant on social security in the 1950's: "These workers have earned their annuities. To require them to give up gainful employment is, in reality, attaching a condition upon insurance which they have themselves bought."

There are other reasons for repealing the wage test. The American Medical Association has concluded older persons suffer great physical and mental harm by being forced to retire sooner than they wish. Another reason is the heavy drain upon the national economy caused by loss of the skills and output of older persons who retire in order to collect their full social security checks.

Also, we know that many older persons must continue working in order to cope with the high cost of living. They cannot afford the luxury of staying at home.

To these points, I might add the basic inconsistency between a Federal law which discourages employment of older persons and the national policy of eliminating mandatory retirement before age 70. The 1978 Age Discrimination Amendments tell older persons they can work up to age 70 free of compulsory retirement rules. The social security earnings test tells these same persons they must retire at age 65 or suffer a penalty by loss of their benefits.

Several leading economists support repeal of the earnings test. Nobel Prize economist Milton Friedman is one. Prof. Carolyn Shaw Bell, Chairman of the Department of Economics at Wellesley College is another.

But what do the economists say about cost? I will turn to that question now.

The Social Security Administration claims it will cost $2.1 billion in additional benefits to repeal the test in 1983. But this estimate does not take account of several savings.

Prof. Marshall Colberg of Florida State University, a former president of the Southern Economic Association, has identified at least five important cost savings:

One, added income tax collections would accrue from additional earned dollar income as a result of expansion of labor force participation of OASI recipients.

Two, additional payroll tax collections would be made from the added employees and their employers, and from self-employed recipients of old-age benefits.

Three, more federal excise taxes would be collected.

Four, underreporting of earned income to the Internal Revenue Service should decline.

Five, a decline in Social Security Administration costs would occur since the earnings test is hard to administer.

Professor Colberg adds a sixth factor in recent testimony before the Senate Special Committee on Aging. He says:

The whole idea of the cost of repeal of the retirement test is a fallacy based on a narrow accounting view. Extra work effort by the over-65 group would increase the real national product and real income per capita.

Professor Colberg's findings are confirmed by Prof. Colin D. Campbell, who is professor of economics at Dartmouth College and one of the Nation's leading authorities on social security. Professor Campbell adds that "the disincentive effect of the earnings test on employment makes older persons more dependent upon governmental transfer payments, raising the overall cost of Government spending."

In other words, remove the earnings test, and reduce public assistance costs.

Professor Campbell agrees that from the point of view of the economy, removing the earnings test is costless. In a private letter to me, dated September 17, 1979, Professor Campbell criticizes the current Advisory Council on Social Security for looking "at the elimination of the retirement test from the point of view of the social security system rather than from the point of view of the economy as a whole."

He writes: "From the point of view of the economy, the retirement test is clearly a bad policy. It discourages employment, reduces the supply of labor, and lowers the total output of the economy."

Next, we might ask what is the dollar amount of savings identified by these economists? Professor Colberg has made a detailed analysis of the additional taxes to be collected from persons added to the work rolls if there were no means test at age 65.

In 1977, he estimated repeal would result in added Federal tax collections of $454 million per year. In a private letter, dated September 12, 1979, Professor Colberg has updated this figure for me to 1982. He calculated that removal of the earnings ceiling in 1982 would raise a minimum of $635 million additional payroll and income taxes. Taking account of other factors, Professor Colberg believes the total savings will amount to "at least one-third" of the estimated cost.

Using very conservative estimates, Professor Colberg finds that 219,105 presently retired persons aged 65 to 69 will be added to the work force by elimination of the test. His analysis does not include any estimate of older persons 65 to 69 who are already working and may increase their incomes once the ceiling is lifted.

A recent study by Social Security Administration researchers proved that increased tax receipts to the Federal Government will be even higher than Professor Colberg has estimated. This study concludes that if the earnings test were eliminated for workers aged 65 to 69, the net increase in social security tax receipts and individual income taxes would amount to 79 percent of the cost of increased benefits.

The authors look both at elderly persons who are still working and those who are now retired. They find that social security recipients aged 65 to 69, who are presently working, will increase their earnings sufficiently to raise an additional $149 million of social security taxes and $212 million of individual income tax payments. This group includes 161,422 current workers who are clustered at or just below the ceiling and 923,565 workers who now earn enough to have some, but not all, of their benefits denied.

The researchers also find that 615,061 workers, who already make over the upper boundaries of the ceiling and therefore receive no benefits, will reduce their earned income once the ceiling is removed. The authors calculate that this negative effect will lower Federal income taxes by $21 million and drop social security taxes by $10.6 mllion.

The authors assume that 1,372,828 social security recipients, with wages $900 or more below the ceiling, will not increase their work effort at all.

Finally, the writers believe 299,000 persons aged 65 to 69, who will otherwise be fully retired, will rejoin or remain in the work force if the earnings test is eliminated. These new workers will generate $540 million in new social security taxes and $786 million in added income taxes.

In all, the study finds that repeal will bring in $1.7 billion of increased revenues, which represents 79 percent of the Government's estimated $2.1 billion cost.

It is interesting that the study puts added social security taxes at 32 percent of benefit payouts. Another researcher, Philip Cagen, estimated repeal of the test would generate increased payroll taxes equal to 33 percent of the cost in a 1974 report to the Social Security Advisory Council. The consistency of these two Government economic studies offers confidence the conclusions do not overstate the savings of repeal.

Since 80 percent of the total tax increases are represented by the earnings of retired persons who will return to work, I will take a closer look at this group. Actually, the Social Security Administration researchers have taken a cautious approach to estimating returning workers. They have made a personal judgment that only 5 percent of all fully retired social security recipients aged 65 to 69 will reenter the work force. There are 5.7 million retired covered workers in this age group. The researchers determine that only 3 million of them have the potential to earn wages above the ceiling.

The authors conclude that only one-tenth of these 3 million retirees will resume work. The authors compare this fraction with the findings of another Social Security Administration researcher, who reported in 1978 that no more than 12 percent of retirees would be very likely to return to work. But the same report indicates that another 24 percent of retired persons "constitute an ambivalent group whose members might return to work."

Also, the researchers might have used another Social Security Administration study which concludes that only 16 percent of retired men age 65 wanted to retire. This study reveals that only 14 percent of all men age 65 had left work because of health reasons. Another 36 percent gave compulsory retirement policies as the reason they left work. But this is no longer as relevant because Congress lifted the mandatory retirement age for most workers from 65 to 70 in 1978.

Applying the earlier survey, adjusted for the new age discrimination law, to the 5.7 million fully retired persons age 65 to 69, more than half have no health problems, are not affected by compulsory retirement rules and did not want to retire. Studies of work experience data convince me that most of these persons remain out of the labor force because of the earnings test.

For example, Profs. William Bowen and Aldrich Finegan point to the income test as the cause of up to half of retirement decisions at age 65. Prof. Michael Boskin of Stanford University, who is pioneering new research of retirement data, finds the earnings test "dramatically increases the probability of retirement." He concludes that a mere reduction "of the implicit tax on earnings from one-half to one-third cuts the annual probability of retirement in half for typical workers."

Profs. Robert Kaplan and Arnold Weber of Carnegie-Mellon University also believe Government cost estimates failed to consider millions of retired persons who would reenter the work force once the earnings test is repealed. Many of these persons do not have a choice of working part time. They can either work full time or not at all. If the ceiling is eliminated, they will return to work with no additional cost to the system. They are receiving maximum benefits already.

Prof. Anthony Pellechio has also demonstrated that eliminating the earnings test will significantly increase labor supply. He believes the clustering of earned income around the exempt amount, and the shifting of this cluster in step with changes in the exempt amount, present graphic evidence of the relationship between labor activity and the earnings ceiling.

The same effect of changes in the level of exempt earnings was found by Social Security Administration researcher Kenneth Sander in 1980. Mr. Sander concluded that "a fairly large number of workers responded to the higher annual exempt amount by increasing their annual earnings" to the new, higher ceiling.

Mr. Chairman, based on the wealth of consistent findings in these numerous economic studies, I believe it is safe to conclude that the job activity of older persons is directly tied to the earnings test. If the test were repealed, I am certain well over the 5 percent of retired persons estimated by Social Security Administration researchers would resume working.

In my opinion, repeal of the test will virtually finance itself. But, even if the Social Security Administration paper is correct, the shortfall is only a fraction of the cost. I suggest that any deficit should be financed by shifting a comparable part of the welfare component of social security to general revenue financing.

Mr. Chairman, I urge you to give older persons a break. Repeal the earnings test and give them back the money that they have earned.

I might ask on behalf of Senator Birch Bayh that a statement by him supporting this will be inserted in the record.

Senator NELSON. Thank you, Senator Goldwater. Senator Bayh's statement will be printed in the appropriate place in the record.

[The statement of Hon. Birch Bayh follows:]

STATEMENT OF SENATOR BIRCH BAYH

Mr. Chairman, the earnings limitation, sometimes called the retirement test, has acted as a deterrent to meaningful employment of older Americans since the establishment of the Social Security system. Over the years however, we have whittled away on this limitation, but we have not eliminated it. The time has come to eliminate it.

Even in 1982 after the 1977 amendments are fully in effect, the earnings limitation will still apply its $1 reduction in benefits for every $2 of earned income in excess of $6,000. The limitation will still apply to older Americans between the ages of 65 and 70. Only after reaching the age of 70 does a person become eligible again for full benefits regardless of earnings.

This limitation effectively discourages older Americans from earning income when they are most capable of doing so. What the present system does is drive out workers from the workforce when they are not ready to retire. That is counterproductive. It does not reduce the cost of paying Social Security benefits for these retirees. They get their full benefits by not working. In fact, the earnings limitation reduces the income of older Americans which in turn reduces the income taxes and the social security payroll taxes which they would pay.

I do not subscribe to the view that there is only so much work to be done in this economy. I believe that older Americans can make a distinct contribution to the productivity and output of our nation. They ought not be penalized by a 50 percent tax on their earnings in addition to the income taxes they also pay. That is why I support a complete repeal of the earnings limitation.

There are no income limits on interest, dividends, and pension income, only currently earned income. This discriminates against those who want to supplement their income by working and do not have substantial retirement income from interest, dividends, and pensions.

With inflation eroding the incomes of older Americans, the least we can do is allow them to earn income to offset rising costs if they are able to do so. Therefore, Mr. Chairman, I urge the favorable consideration of S. 1287.

Senator NELSON. Thank you.

Senator DeConcini?

STATEMENT OF HON. DENNIS DeCONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator DECONCINI. Mr. Chairman, I would like to take this opportunity to thank you and the committee for giving Senators Goldwater, Jepsen, Pressler, and myself the opportunity to testify in favor of this very crucial legislation.

This Nation's most vital resource is the talent, energy, experience, and creativity of its people. Sanctioning legislation which deters this Nation from tapping the resources of its people is self-defeating. The philosophy that leads to legislation making it financially unsound for those over 65 to remain productive members of our society is dangerous for our social structure as well as our economy.

The American Medical Association's Committee on Aging has clearly defined the psychological hazards of involuntary retirement, and I would ask that the balance of that quote from the Committee on Aging be included in the record.

[The material referred to follows:]

To promote mental and physical health every effort should be made to assist each individual to achieve his maximum potential, to utilize his abilities for his own and the human community's greatest benefit.

From the beginning of life until its end, these objectives and motivations should continue to apply. Unfortunately, however, they apply only until a certain chronological age—most often 65—when forces outside of medicine inflict a disease—or disability producing condition upon working men and women that is no less devastating than cancer, tuberculosis, or heart disease. This condition—enforced idleness—robs those affected of the will to live full, well-rounded lives, deprives them of opportunities for compelling physical and mental activity, and encourages atrophy and decay. It robs the worker of his initiative and independence. It narrows physical and mental horizons so much that the patient's final interests and compulsions are in grumbling about his complaints.

This condition has brainwashed thousands into the belief that at 65 one is over the hill. It has imposed the philosophy of the marketplace on the employee—a philosophy that substitutes, at an arbitrary chronological age, the concept "throw out all of the old and defective" for the dictum "to do good and to do no harm."

The physical and mental health of an individual can be affected by loss of status, lack of meaningful activity, fear of becoming dependent, and by isolation. Compulsory retirement produces a chain reaction in the health of such persons. It is a fact that the working man finds it difficult to accept the feeling of no longer being needed on the job. He loses contact with his work associates—many of whom may have been his closest friends—and is thrown back on the family. Here, having a lesser part to play, he may experience loss of dignity and status. This is particularly so if his contributions to the family social circle previously have revolved solely or primarily around a recounting of his job experiences. The individual who has developed virtually no interests outside of those connected with his paycheck, who does not keep up with community affairs or dress up as he did when working, who can offer little to the family circle except his presence underfoot for 24 hours a day,

may soon find himself isolated from the family itself. While isolation, per se, does not cause illness, it increases the chances of physical or emotional disturbance. It may also activate underlying neuroses, contribute to obesity and alcoholism and even precipitate an underlying tendency to suicide. "Vital Statistics of the United States" and other sources report that suicides reach a peak in upper age brackets—after retirement normally occurs. The highest incidendence of suicide for white males occurs in the age group 70 years and over; for nonwhite males in the age group 60 and over. There is also a tendency for the person who commits suicide to do so after being isolated from society.

Senator DECONCINI. Under current law, many individuals who would like to continue their contributions to society must choose to work only for the benefit of the Government or not to work at all. This runs directly counter to the free enterprise system.

It is wrong for this country's legislators to fear the loss of revenues as an excuse to retain earnings limitations. Were it to be removed, I think we would find talent, experience, energy, and creativity flowing into the job market, along with augmented tax contributions and a healthier societal attitude toward the contributions that the elderly have to make.

As my colleague Senator Goldwater has noted, this proposal is not nearly as costly as it would appear at first blush. The Social Security Administration itself has reportedly concluded that 79 percent of the cost for the 65 to 69 age group will be offset by their contributions to the social security tax and the personal income tax.

In addition, the Senate Committee on Aging recenty received testimony from Dr. Marshall R. Colberg, as my colleagues have pointed out.

Let me cite one short statement he puts in that committee hearing.

The case for a retirement test is greatly weakened by the fact that any amount of non-labor income—dividend, interest, rents, and royalties—can be received without a reduction of social security benefits.

Although the distinction between earned income and other income is basic to the retirement test, it is not a clear one. Most labor income is actually interest on "human capital." For many persons at various times in their lives, investment in material and human capital are practical alternatives. However, interest on investment in higher education, vocational training, et cetera, encounters the retirement test while interest on material capital escapes the test. If anything, preference should be given to earned income since one has to work to collect the interest.

Mr. Chairman, I believe that the current state of the law deprives this Nation of the talents of its people. We must change that law to insure not only that the rights and dignity of older Americans are restored, but for the selfish reason that an end to the earnings limitation will benefit each and every one of us through greater levels of economic productivity.

Thank you, Mr. Chairman.

Senator NELSON. Thank you, Senator DeConcini.

Senator Jepsen?

Senator JEPSEN. Mr. Chairman, Senator Dole. It is a pleasure to be able to testify today in favor of abolishing the outside earnings limitations for social security recipients.

I have a statement that I will submit for the record, and just make a few brief remarks.

STATEMENT OF HON. ROGER JEPSEN, A U.S. SENATOR FROM THE STATE OF IOWA

Senator JEPSEN. Mr. Chairman, I would just like to emphasize that the removal of the earnings limitation is a matter of fairness and equity. It is fundamentally unfair to set arbitrary criteria by which an individual may receive benefits that he paid for and is rightfully entitled to.

The social security system was set up as an insurance system, not a welfare system. Therefore, standards of need have no justification anymore than they would for a private pension plan.

Moreover, it is grossly unfair to say that the retirement test will apply only to earned as opposed to unearned income. This means that an individual may receive all of the dividends, interest of capital gains that he wants without reducing his social security benefits. But someone else who wishes to continue working is severely penalized.

My staff has calculated that the de facto marginal tax rate caused by the loss of $1 of benefits for each $2 earned above the earnings limitations in 1979—$4,500—goes as high as 76 percent including social security and Federal income taxes.

The result is many older Americans who would like very, very much to work who could contribute much to our economy, are effectly barred from doing so.

Lastly, I will just say that the latest economic studies indicate that removal of the earnings limitation could be done at a minimal budget cost as already has been indicated here today in previous testimony. If only 10 percent of the elderly stay in the work force after elimination of the limitation, it will offset 80 percent of the increased benefits that would have to be paid.

Personally, I feel that 100 percent of the loss would be recovered based on the work of Prof. Michael Baskin of Stanford who found that a decrease in the implicit tax rate on an earnings of from one-half to one-third would reduce the annual probability of retirement by 50 percent.

Mr. Chairman, in the past, the Congress has dealt with this problem in a piecemeal fashion periodically raising the earnings limit. By 1982, the earnings limit will rise to $6,000. While this is beneficial, since every increase in the limit reduces the de facto marginal tax rate on earnings, it does not go far enough.

Because of inflation and regional cost of living differences, it still imposes a substantial burden on most older Americans.

I commend the Finance Committee for holding these hearings and I hope that they will act favorably on legislation such as that sponsored by Senator Goldwater or myself to remove this earnings limitation.

Experienced workers are a precious resource. We can no longer afford to keep so many of them out of the economy because of the earnings test.

Thank you, Mr. Chairman.

Senator NELSON. Thank you, Senator Jepsen.

Senator Pressler?

STATEMENT OF HON. LARRY PRESSLER, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator PRESSLER. Mr. Chairman, members of the subcommittee, I am pleased to be here today to speak in favor of S. 1287 which would repeal the earnings ceilings of the Social Security Act for all beneficiaries age 65 or older.

I want to commend my colleagues, Senators Goldwater, Jepsen, Stone, DeConcini, Bayh, and others who have joined in introducing S. 1287.

Since that time of our first introduction, 14 of our colleagues have joined as cosponsors of the legislation. I would also like to commend the subcommittee for holding these hearings today.

Mr. Chairman, I have always felt that applying an earnings limitation to a retirement program was unfair. It is detrimental to the senior citizens in our country. It stifles their productivity by taking away their own retirement dollars. It is astonishing to me that such a law is still in effect.

In considering this legislation today, we must keep in mind that we are not dealing with the Government's money. Instead, we are dealing with dollars that individuals and their employers have set aside for retirement. It is unfair for us, or for anyone, to put an arbitrary limitation on how much such individuals can earn through outside employment.

The current law discriminates against the middle class, working class elderly. At the present time, there is no earnings limitation on how much senior citizens can earn in dividends because rental income, pension, dividends, and other such forms of income are not subject to the arbitrary earnings ceiling.

This double standard allows the wealthy to retire and draw social security and unlimited amounts of income not included under the earning ceiling while the working class elderly lose their benefits when their wages reach a certain level.

Since coming to Congress in 1975, I have spoken with elderly people from across South Dakota and elsewhere regarding this legislation. All they ask for is a chance to work past the age of 65 without losing their retirement dollars.

I do not think this is an unfair request.

The country only stands to gain if this legislation becomes law. Senior citizens are typically hard working, dedicated, energetic individuals. We can all learn much from them, but they can certainly not be expected to stay in the work force if, by doing so, they lose the dollars that they have set aside for their retirement.

A country that encourages productivity to the extent that we do in the United States cannot continue to discourage the productivity of its elderly citizens.

The only major argument against this legislation is the cost factor, and that is debatable. Economists have pointed out that, in the past, revenue offsets will come into the Treasury as a result of more elderly people working could very well make up for the revenue loss by increased social security retirement benefits.

It is my understanding that one of the upcoming speakers will present some statistics on this. We look forward to hearing from him.

Mr. Chairman, in closing, I would like to say that it always has seemed strange that a millionaire can earn unlimited dividends and collect full social security, while a person who has worked his entire life is limited as to what he can earn.

It seems as though present law is very unfair and we should change it, and I certainly urge that that be done.

Senator NELSON. Thank you very much, Senator Pressler.

Well, I think that almost everybody would agree, certainly in principle----

Senator GOLDWATER. Mr. Chairman, we do have one other witness.

Senator NELSON. I am sorry.

Dr. Pellechio?

STATEMENT OF PROF. ANTHONY PELLECHIO, ECONOMIC CONSULTANT

Mr. PELLECHIO. Thank you, Mr. Chairman, for the opportunity to present evidence that the social security retirement test has the effect of reducing earnings of retirement-aged workers, thereby reducing payroll tax revenue.

The retirement test is supposed to lower benefits to individuals whose earnings exceed an exempt amount. My early research on the retirement test led me to conclude that retirement-aged workers held their earnings below the exempt amount in order to receive their full benefit payments.

My work also showed that these workers would increase their earnings if the exempt amount were raised.

An implication of this work was that there should be a high concentation of workers who earned just below the exempt amount and whose earnings move up with the exempt amount over time.

In order to examine whether this occurs, I constructed earnings distributions for workers age 65 to 71 because they are eligible for full benefits, subject to the retirement test.

Table 1 of my written testimony gives the percentage of workers in $100 earnings brackets for each year from 1966 through 1975. The earnings bracket just below the exempt amount in each year is underlined.

The percentages in this bracket in all years are high relative to percentages in other brackets. What is particularly significant is how the percentage drops, going from the bracket just below the exempt amount to the bracket just above.

In 1968 through 1972, the exempt amount remained at $1,680 and the percentages in the $1,601 to $1,700 bracket rise steadily from 6.5 to 9.5 percent over that period while the percentages in the bracket immediately above stayed around 1.9 percent.

The fact that in 1972, 9.5 percent of the workers had earnings in the $100 bracket just below the exempt amount while 14.9 percent earned $9,000 or more is particularly significant.

Clearly, retirement-aged workers are holding their earnings below the exempt amount in order to receive their full benefit payment. Therefore, for these workers, the retirement test does not reduce their benefits but rather makes them reduce their earnings.

In other words, the social security system does not save money through lower benefit payments but loses revenue because of foregone payroll tax revenue.

Let's see how this is indeed what happens from another angle. For the years in which the exempt amount changed, table 2 of my written testimony reports the percentage increases in the exempt amount and in total earnings of 65- to 71-year-old workers who earned the exempt amount or less.

As table 2 shows, total earnings of these workers go up with the exempt amount. For example, in 1973, total earnings below the exempt amount went up by 30 percent, when the exempt amount was raised by 25 percent to $2,100 after remaining at $1,680 for the previous 5 years. As workers increase their earnings to follow the exempt amount, they still receive their full benefit payment, so the social security system pays no more in benefits to these workers but collects more payroll tax revenue on their increased earnings.

In my written testimony, I make a rough estimate that the total earnings of workers earning below the exempt amount today is $2 billion. If the exempt amount of $5,500 in 1981 were raised by 50 percent to approximately $8,000 and total earnings went up by the same percentage, there would be a $1 billion increase in these earnings. At a combined employer-employee tax rate of 13.3 percent in 1981, the social security system would collect an additional $133 million from workers earning no more than the exempt amount. This is a $133 million increase in payroll tax revenue with no associated increase in benefit payments to those generating the revenue.

These predictions are, of course, approximations, but the fact that the payroll tax revenue will be raised as a result of behavioral responses to an increase in the exempt amount is obvious from the evidence.

This evidence clearly supports a substantial increase in the exempt amount of the retirement test or elimination of the retirement test entirely. As the age distribution of the population shifts, the labor force participation of older workers will be an important input to aggregate supply. There should be no disincentives to their participation in economic activity.

Thank you, Mr. Chairman.

Senator NELSON. Thank you very much.

I had begun to say that I certainly would agree, in principle: I would like to see no earnings test at all, and I have favored that for years. The problem has always been that there is a cost factor attached.

I understand from your testimony that you have economists saying it would not cost very much. What I am leary about—and we all need to be—is that every single statistic I have ever looked at when we dealt with social security underestimated the cost, including the last 1977 modification in the law, because the assumptions made were wrong. You can argue they could not have guessed any better, but the fact of the matter is they guessed wrong and we may have to increase social security taxes in 1 or 2 years over and above those currently scheduled in the law.

I hope not.

Now, what worries me is anything that adds any cost at all, unless it is paid for.

Now you can get an economist, as you all know, to take a position on just about any side of any issue and they will prove it is this way or that way based on their assumptions. Would you gentlemen agree that if we could obtain a consensus from a range of economists on what the elimination of the retirement test would cost, that we would also include the tax increase to pay for it.

Senator Goldwater, would you agree with that?

Senator GOLDWATER. I first would like to see the figures and have a chance to study them. If necessary, I would argue against the findings. I have heard, as you have heard and all have heard, for years and years that this would be terribly costly but as time goes on, we get more and more indication that it is not going to be costly.

Senator NELSON. Your figures were that it would cost about 80 percent or 70-some percent?

Senator GOLDWATER. Seventy-nine to eighty percent self-sustaining.

Senator NELSON. Let's assume that were the case. Would you agree to a tax increase to pay that difference?

Senator GOLDWATER. If there is any deficit, I think it can be financed by shifting a part of the welfare component of social security to general revenues. Up to a third of benefits are not tied to earnings or payroll tax contributions on these earnings.

So I think that is one position that I could take now. I would not want to commit myself until I see what figures your staff and the Social Security come up with.

I would get back to one thing. We are not talking about Government money. This is money that the American people have put in the kitty, theoretically there is a cigar box around someplace it is all locked up in.

I have been here 30 years trying to find that cigar box and I have not found it. I am not being critical, but this is money that people have coming to them. Whatever we have to do to get it to them I think it is beside the point.

Senator NELSON. I agree in principle. There are some other problems. There is the problem, of course, that the retirement test is currently eliminated at age 72. If a person were able to retire at 65, continue drawing their salary at $30,000 a year or whatever they are making, and receive on top of that social security benefits then the cost of paying these benefits would have to be paid by a worker who averages about $10,500 in earnings.

In other words, you are going to have to increase social security taxes in order for a lawyer or a doctor, who is earning $30,000, $40,000, $50,000, or $60,000 a year, to draw his retirement at age 65. Somehow the costs of providing benefits without regard to earnings has to be paid.

I am just raising some questions I think need to be addressed because any liberalizations will place a greater tax burden on the majority of workers.

You can see what the worker might think about an additional tax to pay social security benefits to an individual who draws

retirement starting at age 65 and continues to work and earn $30,000, or $40,000 a year until he is 70.

It presents a very serious social, political dilemma.

Anyway that is one point.

As you well know, we have a situation in which social security started out with a good principle in 1936, that is, that a dependent spouse—most of whom were not employed, now over half of them are—for all practical purposes, was always a woman; so they made a social decision that if there was a married couple that the dependent spouse would get 50 percent of the earnings of the spouse; 99 times out of 100 or more, it was a dependent wife.

Years go by and over 50 percent of the women are now working. This fact produces a serious situation where two couples live next door to one another, one of the wives worked for 20 years and contributed to social security based on her own earnings record, the other wife did not work under covered employment during that period of time, although she worked in the house—she did not work under covered employment, and, therefore, did not contribute to social security.

Now both husbands retire, both make the same amount of money. The woman who worked for 20 years did not earn enough to result in social security benefits based on her earnings to equal or exceed 50 percent of her husband's benefit, so obviously she elects to take her husband's benefit, which is 50 percent of his benefit. Next door, her neighbor who did not contribute anything takes the 50 percent; so the complaint is, therefore, I worked for 20 years, and have put hundreds of dollars in the system and am getting nothing out.

How do we rectify that? Well, it is a problem we are going to have to tackle because the law was based on the assumption that only 1 percent of married women would work. Now over 50 percent are working. However, to rectify the inequities, there is a big cost factor associated with making changes. A big cost factor.

Another concern is that we took an amendment on the floor of the Senate that was an absolute disaster in 1972 and we rectified it in the 1977 amendments—the double indexing problem. You are going to hear about it because people who are retiring this year are going to get $100 a month more than anybody who retires next year at the same age as a result of the correction of the double indexing situation.

When double indexing was eliminated, a situation occurs where two neighbors, both of them working in the same plant, for the same number of years, one worker retired 1 year later than the other one worker gets $100 or $150 a month less per month in social security benefits because of the elimination of the double-indexing provision; this whole double-indexing problem occured because an amendment was adopted on the floor without thorough examination of the cost associated with the amendment.

As chairman of the subcommittee, I am scared to death of making moves which will increase costs to the social security system—a system that is currently being strained to its maximum limitations because of the impact of inflation on the trust funds was not totally anticipated when the tax rates were established. When the assumptions were made in 1977 about what the inflation

rate, the fertility rate and the unemployment rate would be in the future, the rate of inflation was underestimated A 5.5 percent inflation rate was assumed, but the inflation rate is now over 18 percent.

In addition, the unemployment rate is much higher than was anticipated. The social security trust funds may now be in trouble. It may require an increase in the wage base or tax rate.

The point I am presenting is, would all of you agree if we can reach some compromise with the economists on what the elimination of the retirement test would cost; that taxes should be increased to cover these costs?

I do not want to go to the floor and pass a benefit without a tax to pay for the benefit. All of your here, with your distinction in the Senate, if you are supporting a tax along with your amendment, if a tax is necessary, then your proposal is workable.

If we are throwing out a benefit with no tax when, in effect, it would cost money, we are causing a very serious problem.

Do any of you want to comment?

Senator GOLDWATER. I wish the others would express themselves.

Senator DECONCINI. Let me express myself on that matter.

It seems to me your question raises the need to evaluate the social security and the social programs that over a long period of time have been tied to social security, not just the retirement benefits, if you want to call them that, or the insurance benefits based on retirement.

I believe that a clear distinction should be made, if there is going to be a tax increase, that it should be to finance those noninsurance retirement benefits.

Senator NELSON. You are talking about medicare?

Senator DECONCINI. Yes, sir.

Senator NELSON. I have advocated the transfer of general funds into medicare for years. I lost that battle in the Finance Committee in 1977.

But you pose another question which must be addressed: Would such a transfer increase the budget deficit?

Senator DECONCINI. That is right, but it seems to me something that we ought to consider and I hope the committee would consider as far as the social security recipient is concerned, that ought to be a separate question and issue, and maybe this committee cannot make a distinction without also finding the tax for medicare or whatever else there is.

But I could support a tax for something separate, or at least consider a tax for something separate. But to impose now a greater tax for taking the limitation off, no, I would not support that.

I would give serious consideration to a tax for medicare or some other program that is not part of the total social security system per se.

Senator NELSON. Are you saying, if they are correct, that it would cost one-tenth of 1 percent increase in the tax on the employer and employee? You would not support that?

Senator DECONCINI. No, sir.

Senator NELSON. You would support adding to the burden of the fund?

Senator DECONCINI. Yes. I would support a general revenue participation, which may mean greater taxes if we cannot balance the budget that we are attempting to do at this time.

But to raise the employer-employee's contribution as a result of this legislation, no, I would not support it.

Senator NELSON. You understand the dilemma we are getting into.

I argued, as I said, and I made the motion in this committee, to start to move to infuse general fund moneys to pay medicare.

Senator DECONCINI. I supported that on the floor. Somebody offered that on the floor, I believe.

Senator NELSON. I lost it anyway, in this committee.

My point is, you see the dilemma. Would you agree that if we cannot get a majority Congress to agree to either transfer the general fund money into medicare and raise whatever taxes are necessary, or make whatever reductions necessary to do that, if we can agree on that and we can agree on a tax increase that you would vote against adding to the burden of the social security fund?

Senator DECONCINI. Yes, that is right. I would vote against adding to the burden of the social security fund.

Senator NELSON. My concern is to make sure it is funded. I think we are in a situation where none of us, and none of you, would want to add to the deficit of the fund.

Senator DECONCINI. I agree with the Chairman. The problem is that people who are receiving social security now, are suffering from that decision made some time ago, of adding medicare and other programs to social security, that should be reversed.

We cannot sit here and criticize it. We ought to reverse it, in my opinion.

Senator NELSON. Disability—well, disability was added in 1957. That is wage-related.

Medicare was added in 1965. That was not wage-related and I think it is unfortunate that we ever got anything into the social security system that was not wage-related. Maybe we can work something out.

I just worry about where the fund is going, if, in fact, there is a cost.

Senator JEPSEN. Mr. Chairman, I might suggest in many areas where the Government has attempted to take over complete administration of, and handling of, systems or projects or commitments that the private sector has successfully done for years, the Government has historically done a miserable job.

The fact that social security, as you just indicated, has been invaded—I do not want to say the funds have been raped, but they have been used to provide many of the things that social security was never intended for when it was instituted to begin with.

You know, if we are going to do a better job of administering the funds, the Government has to understand what the private sector has understood for many years. We have a century and a half old private sector, the insurance industry, that has provided pensions, all types of disability incomes and has done it successfully.

Never has an old-line, legal reserve life insurance company ever failed to pay a claim, in spite of wars, depressions, whatever it may

be, in 150 years. And yet we do not seek to take advantage of the expertise of this private sector.

Senator Goldwater says he has looked for the cigar box with the funds. The problem is, there is not any cigar box with funds, even though the law is explicit as to where social security funds are supposed to be put.

Social security funds and funds for that have been invaded, they have been shuffled around contrary to law, and we have no such thing. What we call in the insurance industry and the private sector where successful people do things, such things known as double duty dollars, making dollars work both ways.

That alone, if you looked into it, would help.

The principal argument against lifting the earnings limitation, Mr. Chairman, is of course that some people say it will cost the Government money—you know? I think that is just a cop-out.

What the bureaucracy is really saying, we do not know what we are doing, so we do not want to change anything.

It is estimated that the elimination of the earnings limitation, some people say would cost $2.1 billion on a static basis. This may be true, but it ignores all the economic benefits, which will come from the skills of older Americans presently discouraged from working and ignores the revenue generated by these people who are working who would not otherwise.

The latest estimate from the Social Security Administration on what the revenue feedback would be ranged from 16 percent of increased expenditures in combining social security and Federal income tax revenues has already been stated here: 79 percent of the expenditure, assuming 10 percent or more of the people aged 65 to 69 stay in the work force.

Based on the research of people like Professor Boskin of Stanford, I would say a 10-percent increase in the labor force, participation of workers of age over 65 is probably conservative, given the elimination of the earnings test.

According to Boskin, a decrease, as I have already stated, in the implicit tax rate on earnings from one-half to one-third would reduce the annual probability of retirement by 50 percent.

So in summary—and I just close with this final statement—if we take a hard look at our social security system, Mr. Chairman, and to make sure that we fulfill and follow through in the promise that we have made for many, many years to those who have given of their money and their employer's money to provide for something that has always been a problem for all States and governments ever since the history of mankind—that is, dependence upon the State. For those who will save for their retirement years, if we would take, in good faith, bring in the expertise of the private sector to take a real hard look and ask for their assistance to make sure that we put social security on an actuarially sound basis, then we will really be doing the country a service, the taxpayers a service, all those to whom we have promised social security a service.

Unless I believe it is highly probable that the elimination of the earnings test, frankly, if you do that, will make money for the Federal Government, if there is such a thing, you know? It will

save the taxpayers money in spite of the increased expenditures. I honestly believe this.

Senator NELSON. Just for your information, the advisory counsel that advised us on what the tax and base rate had to be contains insurance industry and employer representatives.

There is a difference between the insurance industry and social security. In private insurance, if you sign a contract with them on retirement in 1922, it is the same contract in 1990, if you are still alive.

Congress has continually—and I do not think incorrectly—changed the benefits. If you only had a 1 percent tax on the first $3,000 of income, as was the case when social security began—which covered 95 percent of total income in the country at that time—if you had left it there, you would have enough when you retired to pay for about one meal. So it became necessary to increase the base as inflation went up.

So we have changed that contract constantly. There never has been any money, I might say, intended to be in a cigar box. It is a revolving fund.

The trust funds are revolving funds. It has not been spent illegally.

There are three trust funds. We arbitrarily created them. We really do not need but one. We said we think *x* amount should go to DI, *x* amount to medicare and *x* amount to retirement and survivors insurance. But those are arbitrary figures and we now find there is too much going into medicare and disability.

But it is a revolving fund in which those who are working pay whatever it is necessary to support the benefits of those who are retired.

I think that social security is the best social program ever designed in the history of America and it has worked very well.

Now, there are some problems because of this horrendous inflation that no one anticipated because the retirement benefits are tied to the cost of living.

If you retired 10 years ago on an adequate income and it did not change, you would be on relief today because of the inflation rate. Whether it is overindexed or underindexed, I do not know. The argument is made that it is overindexed.

I think it ought to be indexed to wages, but the fact of the matter is if it had been indexed to wages for 20 solid years we would be getting editorials saying it is overindexed because, in fact, wages went up faster than inflation. Now, suddenly inflation is going up faster than wages, so they are saying it is overindexed.

If an elderly index were developed, you might find out it is underindexed. Maybe the cost of medicine and the cost of heat and so forth is a much larger percentage of the elderly folks' budget than the so-called housing factor which, it is alleged, distorts the CPI because older folks are not buying as many houses.

I would not want to bet, if you suddenly came up with an elderly index that you would have to increase the benefit to the elderly. I am not sure.

My worry simply is the same, I am sure, as yours.

I think you are on sound ground. I think the principle is correct. I would like to see people work as long as they want to work, and

hey ought to be encouraged to do so, and they could make a reater contribution than some people historically have thought.

But there is just one problem. Can we be sure that we have your greement that if it costs more money we will adjust for it by aking it from the general fund or that we will levy the tax to do t?

Senator JEPSEN. Mr. Chairman, may I make one other brief statement? I want to make sure that the record shows that Senator Roger Jepsen is absolutely 100 percent in support of reaffirming, reinforcing, and making social security even better than it is.

Any statements that be twisted and misconstrued, that I said I have been in the insurance business for a quarter of a century with a little company called Connecticut General Life Insurance Co. I think maybe you have participation or something on the board.

The fact is that social security, as it has been administered by the Government, still has not made use of the double-duty dollars or the same factors that have been used in the insurance industry over the years.

I agree with you, Mr. Chairman. You are correct, essentially, that you put money in sort of a holding bank and the young people put it in on the top side and you pull on the bottom side and give it to those who retire.

But social security has had so many different things that instead of taking that money and making it work, the double-duty dollars that will be good for the economy and a lot of other things, they do not do this, and that is not as the private sector has done and it should use that expertise.

Until such time as they do, we will continue to go on to have social security be shaky, underfunded, and it is unfortunate that many young people today are saying, and questioning. They will have what they are putting in.

You have heard it and I have, a lot of times. That is unfortunate.

Senator NELSON. You are correct. People do say that. I think it is unfortunate.

But I think that social security will be the last insurance fund in this country to go under. The privates will all go under first.

Senator Dole, I did not expect to see you on my left. Why do you not come over on the right someplace?

Senator DOLE. It depends which way you are facing. The voters are out there.

Senator NELSON. I do not think that is going to help any. I do not see anybody who looks like they came from Kansas.

Senator DOLE. There may be others waiting to move. There used to be a story, if you put every economist end to end, you would have something—but I cannot remember what the punchline was.

Mr. PELLECHIO. You could not reach a conclusion.

Senator NELSON. They all point in different directions.

Senator DOLE. It indicates, as Senator Nelson points out, the difficulty. As a cosponsor of the efforts of Senator Goldwater in the 1977 amendment to do away with the earnings test, I am biased and prejudiced, just as Senator Nelson is, to figure out some way to do it. If it can be done fairly. This question may have been answered before I came in. Maybe Mr. Pellechio could answer it. How

many workers and retired persons would benefit from repeal of the test?

Maybe Senator Goldwater has firm numbers.

Senator GOLDWATER. Yes, I think I could answer your question.

According to the Social Security Administration researchers, almost 3 million older persons would benefit by repeal of the earnings test. These persons include 2,300,000 age 65 to 69 who have had all or some of their benefits denied because of age or because of the test; and 161,400 workers now clustered at or near the ceiling who deliberately hold their earnings down.

Senator NELSON. What was that last number?

Senator GOLDWATER. 161,400 are now clustered at or near the ceiling who deliberately hold their earnings down in order to collect full benefits.

Senator NELSON. This is a group who, when they reach the maximum each additional dollar of earned income results in a 50-percent reduction in their social security benefits. That is the group?

Senator GOLDWATER. Yes.

Senator NELSON. I did not know they were able to identify and determine the number of people in this group.

Senator GOLDWATER. The Social Security Administration seems to have it.

Senator NELSON. I did not realize that.

Senator GOLDWATER. They have some remarkable figures, also there are 299,000 people who have withdrawn from work entirely becuase of the earnings ceiling, but who would return to work as soon as the penalty is repealed.

I personally believe that 4 million people 65 to 69 will directly benefit from repeal.

I might add that probably I am the oldest guy around here. I do not believe in retirement, not one damn bit. If a guy can work until he's 100, pay him.

I do not see any reason to set up mandatory ages to quit work. I am trying to prove it this year.

Senator DOLE. There are others doing the same thing, you know, some are older than you are. But this proposal assumes that there will be enough jobs. I guess that is the question we are talking about. Increasing unemployment.

Will this have any impact, Mr. Pellechio?

Mr. PELLECHIO. I want to make a couple of points in response to your question. One is that the data that I used comes from the Social Security Administration. I am not using something that comes from elsewhere.

One thing I did not point out in my verbal testimony but is in the written testimony is that I also constructed the same earnings distributions for workers aged 72 and over not subject to the retirement test.

Now, if the story I am telling is true, we should not see any concentration of workers at the exempt amount, as Senator Goldwater just pointed out. Sure enough, when you look at the last table, you do not see any cluster at the exempt amount in the years for which I did the distributions. There is also considerable

overlap between the samples so you are observing behavior of the same people.

So once the retirement test is lifted because they turn age 72, they are able to work more. They no longer hold their earnings down.

The very rigid, institutional story about the labor market which says that these people could not go on to earn more if the exempt amount were raised I do not think is substantiated in the full written testimony. They are able to continue to work beyond the old exempt amount, up to the new one.

Also, I guess I should point out, I only look to workers. I make no assumptions about people coming back to work. It is entirely possible that people will decide not only to receive their full benefits but not to work at all because the exempt amount hardly pays for bus fare to go to work to earn the exempt amount.

My estimates, albeit bringing in the new dimension, the behavioral response dimension, are still nonetheless conservative. The estimates made by the social security Administration are even more conservative than that.

That is why I think, in agreement with the Senators, that it is the revenue-generating change.

On that point you just cannot do any better, and honest people will disagree.

Senator DOLE. It is suggested by some that maybe you could tax half the benefits. Maybe that could be put in.

A proposal by the advisory council is to put the tax revenues in the general fund. Maybe it could be put into the social security trust fund, if anybody favored taxing benefits. I have seen few volunteers, including the one making the noise.

Does anybody else have anything?

Senator GOLDWATER. I just would like to make a comment. Arizona, I believe, is the second highest per capita retirement State in the Union, only exceeded by Florida. That is because people have been exposed to Florida much longer. That will change.

The area where I really see this benefiting is in the skilled level. This country is running out of skilled labor. This country is becoming a service nation and we are losing men and women who are skilled with machines, with their hands.

I will give you one. I will cite you one example that I know you have heard of.

One of our retirement communities have an organization—I forget what they call it, but it is made up of men past the retirement age who were very skilled at plumbing, electrical work, particularly carpentry, and if you want something done, they are there.

They do not charge below union scale, but they do the best work that you can get, and yet they are all retired.

This is where I see the benefit coming back into our industrial levels where so help me God, you cannot find good work anymore.

Senator DECONCINI. Senator Dole, let me add that I agree with my colleague, Senator Goldwater, but there is a humanistic point here. I am not putting someone out to pasture, and being from the fine State you are from, you understand the pasture and nobody

wants to go there. It is really very detrimental and we have witnessed that in Arizona.

Many retirees who have to retire and come to Arizona, and in fact they do not find happiness. Not because they do not like Arizona—that is the good side of life—but the fact that they cannot do something because of this limitation or they feel that economically it is detrimental to them and I think that is very important, that we not create a second-class retired citizen as we have.

I do not think it was anybody's intention to do so, but in fact that is what has happened, particularly in a State like Arizona.

Senator JEPSEN. Mr. Chairman, because of the demographic changes in population, one of the greatest problems facing our economy in the 1980's and beyond will be a shortage, serious shortage of labor, especially of skilled labor, that Senator Goldwater commented on.

Unfortunately, because of our social security laws that incorporate the old, what they call lump of labor fellows, they were unnecessarily denying ourselves services and well-created abilities of many highly skilled and experienced workers.

Throughout history, mankind has revered the repository of wisdom, experience, and skills possessed by the aged and in the United States today, this tradition has been undermined on a national scale.

Built into the social security system is a major deterrent in the retirement test. It has been said several times today that most people remain able to work at the age 65 and beyond. A number of these would like to augment their retirement incomes.

Output, income, growth in the general level of economic well-being are all reduced by the fact that this desire to work is substantially frustrated. So we can ill-afford such a dissipation of a unique, national resource.

While our wealth may be great, gratuitous waste is intolerable and I think it is pernicious to effectively deny society access to the skills and abilities of its aged members.

Moreover, it is transparently unjust to require the elderly to work under confiscatory taxes. Ironically, the provisions that reduce social security benefits of the 65 to 72 age group as earnings rise is an onerous tax on the very group the system is supposed to help.

I think the retirement test, in addition to being uneconomical, is immoral.

Senator DOLE. We appreciate very much your testimony. All your statements will be made a part of the record as though given in full. Thank you very much.

Senator JEPSEN. Thank you.

Senator GOLDWATER. Thank you, sir.

[The prepared statements of the preceding panel follow. Oral testimony continues on p. 116.]

Statement of Senator Barry Goldwater
Before the Senate Subcommittee on Social Security

Repeal This Robbery of Older Persons

April 21, 1980

Mr. Chairman, I want to personally thank you for your great courtesy in scheduling the hearing for today so that I might appear before you.

Strange as it seems, there has never before been a Congressional hearing solely addressing the earnings ceiling on social security benefits, and I applaud your decision to give me and others an opportunity today to focus on this anomaly in the old age insurance program.

Mr. Chairman, I believe the earnings test should be repealed at age 65, which is the traditional age of entitlement to full benefits.

The bill I have introduced with Senators Bayh, DeConcini, Pressler and Stone as co-authors will do just that. S. 1287 will repeal the earnings ceiling for all persons age 65 and older beginning in January of 1983.

We are joined by 15 other Senators who have cosponsored S. 1287, and I ask that the text of the bill and names of all 20 sponsors may appear at the conclusion of my remarks.

Senator Jepsen has also introduced repeal legislation. I am a cosponsor of his bill. He is a cosponsor of S. 1287.

Mr. Chairman, the law now discriminates against more than 11 million citizens aged 65 to 72. If persons of this age wish to or must continue working, they must pay a surtax of 50%! They lose one dollar of social security for every two dollars of wages on all income earned over $5,000, until their benefits are cut entirely.

This tax of 50% is in addition to any Federal, State, County or city income taxes they will have to pay; and the penalty is on top of continued social security taxes collected from aged workers whether or not they receive benefits.

Mr. Chairman, the law has been improved. An amendment which I offered in 1977, as modified by the substitute amendment of Senator Church, increased the

ceiling in stages from $3,000 to $6,000 and lowered the exempt age to 70 from 72. This amendment will be fully effective in 1982.

But I want to go a step beyond the 1977 amendments. The sponsors of S. 1287 want to repeal the ceiling entirely.

We believe the money older persons pay into social security is theirs. It does not belong to the government and the government should have no say in how it is paid back. The government's only responsibility is to pay it back; whether older persons earn extra money or not has nothing to do with it.

And don't let anyone tell you, Mr. Chairman, that the working person does not bear the entire burden of the social security tax. As Professor William C. Mitchell has written:

> "Whatever the fiscal illusions involved, the tax on the employer is actually a tax on labor; he passes on his share of the tax to the workers in the form of lower wages." 1

Professor Mitchell adds:

> "The real social security tax on the individual worker is not the 5.85 percent the law stipulates, but double that amount." 2

In 1982, that tax will be even higher, for a combined tax rate of 13.4 percent. The tax base of workers will have been increased eight times and their tax rates thirteen times.

In the words of our former colleague, the late Senator Paul Douglas, who was a professor of economics and a consultant on social security in the 1930's:

> "(These workers) have earned their annuities. To require them to give up gainful employment is, in reality, attaching a condition upon insurance which they have themselves bought." 3

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1. W. Mitchell, "The Popularity of Social Security: A Paradox in Public Choice," American Enterprise Institute for Public Policy Research, 1977, at p. 8.

2. Id.

3. Paul H. Douglas, Social Security in the United States, 1936, at pp. 171-72.

There are other reasons for repealing the wage test. The Ame:ic . . dical Association has concluded older persons suffer great physical and ment l h . a by being forced to retire sooner than they wish. 4 Another reason is the heavy drain upon the national economy caused by loss of the skills and output of older persons who retire in order to collect their full social security checks.

Also, we know that many older persons must continue working in order to cope with the high cost of living. They cannot afford the luxury of staying at home.

To these points, I might add the basic inconsistency between a Federal law which discourages employment of older persons and the national policy of eliminating mandatory retirement before age 70. The 1978 Age Discrimination Amendments tell older persons they can work up to age 70 free of compulsory retirement rules. The social security earnings test tells these same persons they must retire at age 65 or suffer a penalty by loss of their benefits.

Several leading economists support repeal of the earnings test. Nobel Prize economist Milton Friedman is one. Professor Carolyn Shaw Bell, Chairman of the Department of Economics at Wellesley College is another. 5

But what do the economists say about cost? I will turn to that question now.

The Social Security Administration claims it will cost $2.1 billion in additional benefits to repeal the test in 1983. 6 But this estimate does not take account of several savings.

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4. See "Retirement: A Medical Philosophy and Approach, "American Medical Association Committee on Aging, 1972.

5. C. Bell, "The Cruel Tangled Web Called Social Security," Los Angeles Times, December 16, 1973, part VI, at pp. 1, 4.

6. See Memo from Office of Chief Actuary, Social Security Administration, to Senator Barry Goldwater, Appendix 1.

Professor Marshall Colberg of Florida State University, a former president of the Southern Economic Association, has identified at least five important cost savings:

"1. Added income tax collections would accrue from additional earned dollar income as a result of expansion of labor force participation of OASI recipients.

"2. Additional payroll tax collections would be made from the added employees and their employers, and from self-employed recipients of old-age benefits.

"3. More federal excise taxes would be collected.

"4. Underreporting of earned income to the Internal Revenue Service should decline.

"5. A decline in Social Security Administration costs would occur since the earnings test is hard to administer." 7

Professor Colberg adds a sixth factor in recent testimony before the Senate Special Committee on the Aging. He says:

"The whole idea of the cost of repeal of the retirement test is a fallacy based on a narrow accounting view. Extra work effort by the over - 65 group would increase the real national product and real income per capita." 8

Professor Colberg's findings are confirmed by Professor Colin D. Campbell, who is Professor of Economics at Dartmouth College and one of the nation's leading authorities on social security. Professor Campbell adds that "the disincentive effect of the earnings test on employment makes older persons more dependent upon governmental transfer payments, raising the overall cost of government spending." 9

In other words, remove the earnings test, and reduce public assistance costs.

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7. M. Colberg, "the Social Security Retirement Test; Right or Wrong?", American Enterprise Institute for Public Policy Research, 1978, at pp. 42-43.

8. Testimony of M. Colberg before the Senate Special Committee on Aging, November 28, 1979. See Appendix II.

9. C. Campbell-R. Campbell, "Conflicting Views on the Effect of Old-age and Survivors Insurance on Retirement," Economic Inquiry, Vol. 14, Sept. 1976, at pp. 369, 385; see also, C. Campbell, "The 1977 Amendments to the Social Security Act," American Enterprise Institute for Public Policy Research, 1978, at p. 18.

Professor Campbell agrees that from the point of view of the economy, removing the earnings test is costless. In a private letter to me, dated September 17, 1979, Professor Campbell criticizes the current Advisory Council on Social Security for looking "at the elimination of the retirement test from the point of view of the social security system rather than from the point of view of the economy as a whole."

He writes:

> "From the point of view of the economy, the retirement test is clearly a bad policy. It discourages employment, reduces the supply of labor, and lowers the total output of the economy."

Next, we might ask what is the dollar amount of savings identified by these economists? Professor Colberg has made a detailed analysis of the additional taxes to be collected from persons added to the work rolls if there were no means test at age 65.

In 1977, he estimated repeal would result in added Federal tax collections of $454 million per year. In a private letter, dated September 12, 1979, Professor Colberg has updated this figure for me to 1982. He calculated that removal of the earnings ceiling in 1982 would raise a minimum of $633 million additional payroll and income taxes. Taking account of other factors, Professor Colberg believes the total savings will amount "to at least one-third" of the estimated cost.[10]

Using very conservative estimates, Professor Colberg finds that 219,105 presently retired persons aged 65-69 will be added to the work force by elimination of the test. His analysis does not include any estimate of older persons 65-69 who are already working and may increase their incomes once the ceiling is lifted.

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10. See letter from Dr. M. Colberg to Senator Barry Goldwater, September 12, 1979, Appendix III.

A recent study by Social Security Administration researchers proves that increased tax receipts to the Federal Government will be even higher than Professor Colberg has estimated. This study concludes that if the earnings test were eliminated for workers aged 65-69, the net increase in social security tax receipts and individual income taxes would amount to 79 percent of the cost of increased benefits. [11]

The authors look both at elderly persons who are still working and those who are now retired. They find that social security recipients aged 65-69, who are presently working, will increase their earnings sufficiently to raise an additional $149 million of social security taxes and $212 million of individual income tax payments. This group includes 161,422 current workers who are clustered at or just below the ceiling and 923,565 workers who now earn enough to have some, but not all of their benefits denied.

The researchers also find that 615,061 workers, who already make over the upper boundaries of the ceiling and therefore receive no benefits, will reduce their earned income once the ceiling is removed. The authors calculate that this negative effect will lower Federal income taxes by $21 million and drop social security taxes by$10.6 million.

The authors assume that 1,372,828 social security recipients, with wages $900 or more below the ceiling, will not increase their work effort at all.

Finally, the writers believe 299,000 persons aged 65-69, who will otherwise be fully retired, will rejoin or remain in the work force if the earnings test is eliminated. These new workers will generate $540 million in new social security taxes and $786 million in added income taxes.

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11. Josephine Gordon and Robert Schoeplein, "Tax Impact From Elimination of the Retirement Test," Social Security Bulletin, vol. 42, September 1979, at pp. 22-32. See Appendix IV.

In all, the study finds that repeal will bring in $1.7 billion of increased revenues, which represents 79 percent of the government's estimated $2.1 billion cost.

It is interesting that the study puts added social security taxes at 32 percent of benefit payouts. Another researcher, Philip Cagen, estimated repeal of the test would generate increased payroll taxes equal to 33 percent of the cost in a 1974 report to the Social Security Advisory Council. [12] The consistency of these two government economic studies offers confidence the conclusions do not overstate the savings of repeal.

Since 80 percent of the total tax increases are represented by the earnings of retired persons who will return to work, I will take a closer look at this group. Actually, the Social Security Administration researchers have taken a cautious approach to estimating returning workers. They have made a personal judgment that only 5 percent of all fully retired social security recipients aged 65-69 will reenter the work force. There are 5.7 million retired covered workers in this age group. The researchers determine that only 3 million of them have the potential to earn wages above the ceiling.

The authors conclude that only one-tenth of these 3 million retirees will resume work. The authors compare this fraction with the findings of another Social Security Administration researcher, who reported in 1978 that no more than 12 percent of retirees would be very likely to return to work. But the same report indicates that another 24 percent of retired persons "constitute an ambivalent group whose members might return to work." [13]

Also, the researchers might have used another Social Security Administration study which concludes that only 16 percent of retired men age 65 wanted to retire. This study reveals that only 14 percent of all men age 65 had left work because of

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12. P. Cagen, "Effect of the Elimination of the Retirement Test on OASDI Revenues," Social Security Administration, Sept. 18, 1974.

13. D. Motley, "Availability of Retired Persons for Work: Findings From the Retirement History Study," Social Security Bulletin, April, 1978, at p. 27.

health reasons. Another 36 percent gave compulsory retirement policies as the reason they left work. [14] But this is no longer as relevant because Congress lifted the mandatory retirement age for most workers from 65 to 70 in 1978. [15]

Applying the ealier survey, adjusted for the new age discrimination law, to the 5.7 million fully retired persons age 65-69, more than half have no health problems, are not affected by compulsory retirement rules and did not want to retire. Studies of work experience data convince me that most of these persons remain out of the labor force because of the earnings test.

For example, Professors William Bowen and Aldrich Finegan point to the income test as the cause of up to half of retirement decisions at age 65. [16] Professor Michael Boskin of Stanford University, who is pioneering new research of retirement data, finds the earnings test "dramatically increases the probability of retirement." He concludes that a mere reduction "of the implicit tax on earnings from one-half to one-third cuts the annual probability of retirement in half for typical workers." [17]

Professors Robert Kaplan and Arnold Weber of Carnegie-Mellon University also believe government cost estimates failed to consider millions of retired persons who would reenter the work force once the earnings test is repealed. Many of these persons do not have a choice of working part time. They can either work full time or not at all. If the ceiling is eliminated, they will return to work with no additional cost to the system. They are receiving maximum benefits already. [18]

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14. V. Reno, "Why Men Stop Working at or Before Age 65," Social Security Bulletin, Vol. 34, June 1971, at p. 5.

15. H.R. 5385, Public Law 95-256, April 6, 1978.

16. W. Bowen and T. A. Finegan, The Economics of Labor Force Participation, Princeton University Press, 1969, at pp. 281-285.

17. M. Boskin, "Social Security and Retirement Decisions," Economic Inquiry, vol. 15, January 1977, at p. 13.

18. R. Kaplan and A. Weber, "A Proposal to Eliminate the Social Security Retirement Test," Social Security Administration, (Working Paper for the Advisory Council on Social Security), September, 1974.

Professor Anthony Pellechio has also demonstrated that eliminating the earnings test will significantly increase labor supply. He believes the clustering of earned income around the exempt amount, and the shifting of this cluster in step with changes in the exempt amount, present graphic evidence of the relationship between labor activity and the earnings ceiling. [19]

The same effect of changes in the level of exempt earnings was found by Social Security Administration researcher Kenneth Sander in 1970. Mr. Sander concluded that "a fairly large number of workers responded to the higher annual exempt amount by increasing their annual earnings" to the new, higher ceiling. [20]

Mr. Chairman, based on the wealth of consistent findings in these numerous economic studies, I believe it is safe to conclude that the job activity of older persons is directly tied to the earnings test. If the test were repealed, I am certain well over the 5 percent of retired persons estimated by Social Security Administration researchers would resume working.

In my opinion, repeal of the test will virtually finance itself. But, even if the Social Security Administration paper is correct, the short-fall is only a fraction of the cost. I suggest that any deficit should be financed by shifting a comparable part of the welfare component of social security to general revenue financing.

Mr. Chairman, I urge you to give older persons a break. Repeal the earnings test and give them back the money that they have earned.

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19. A. Pellechio, "The Social Security Earnings Test, Labor Supply Distortions, and Foregone Payroll Tax Revenue," National Bureau of Economic Research, August 1978, at pp. 2, 5.

20. K. Sander, "The Effects of the 1966 Retirement Test Changes on the Earnings of Workers Aged 65-72," Research and Statistics Note, Social Security Administration, January 30, 1970, at p. 2.

APPENDIX 1.

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

TO : Mr. Dwight K. Bartlett, III

DATE: July 5, 1979

[illegible] SEC

FROM : Harry C. Ballantyne

SUBJECT: Proposal To Eliminate the Retirement Test for Workers Aged 65 and Over—INFORMATION

Under the subject proposal, the retirement test would be eliminated for workers aged 65 and over, beginning January 1983. The resulting additional amount of OASDI benefit payments for months in calendar year 1983, over and above benefit payments under present law, is estimated to be $2.1 billion. After 1983, the additional amount of benefit payments would increase gradually, but at a slower rate than total OASDI benefit payments.

This estimate reflects the effect of the reduction in the age at which the retirement test ceases to apply under present law, from age 72 to age 70, beginning in 1982. The increases in the annual amount of earnings exempted from the test, which are scheduled under present law for workers aged 65 and over, are also reflected in the estimate. The exempt amount for workers aged 65 and over is scheduled to increase to $6,000 in 1982. Under the intermediate assumptions in the 1979 Trustees Report, upon which the estimate in this memorandum is based, the exempt amount for workers aged 65 and over is assumed to increase to $6,600 in 1983.

Harry C. Ballantyne

Harry C. Ballantyne
Acting Deputy Chief Actuary

APPENDIX II.

TESTIMONY

on

THE SOCIAL SECURITY RETIREMENT TEST

Dr. Marshall R. Colberg
Professor of Economics
Florida State University

November 28, 1979

Under the social security retirement test a person who continues to work after qualifying for benefits loses all or part of the benefits in any year when earnings exceed a specified amount. For 1979 this amount is $4,500 for those aged 65 to 72. It is scheduled to rise to $5,000 in 1980, $5,500 in 1981, and $6,000 in 1982. At the current inflation rate, however, real earnings permitted without penalty will actually decline each year. The scheduled liberalization can be considered to be a "money illusion."

For persons under 65 the permitted unpenalized earnings in 1978 were only $3,240 with automatic adjustment for inflation after that date. This test seems to be especially inappropriate since a large number of persons have chosen 62 as the age to receive retirement benefits. This action by Congress in 1977 was unjustified, I believe. Actions of some of the earlier Congresses were even more harsh. In the early years of social security in the United States, complete forfeiture of benefits occurred in any month when there was any

work in covered employment. During World War II, when maximum work effort by all age groups should have been encouraged, the entire monthly retirement benefit was lost if as little as $15 was earned.[1]

At the heart of the problem is the ambivalence of social security goals. Those who think of Old Age and Survivors Insurance as primarily a device for the redistribution of income tend to favor a strict earnings test so that benefits do not go to persons with large earned incomes. Those who regard OASI benefits as primarily a compulsory savings program see no proper role for a retirement test since they regard government annuities as an alternative to private annuities that could have been received without regard to subsequent earnings.

The case for a retirement test is greatly weakened by the fact that any amount of non-labor income -- dividends, interest, rents, and royalties -- can be received without a reduction of social security benefits.

Although the distinction between earned income and other income is basic to the retirement test, it is not a clear

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[1] Marshall R. Colberg, The Social Security Retirement Test: Right or Wrong? (Washington, D. C., American Enterprise Institute, 1978), p. 3.

one. Most labor income is actually interest on "human capital." For many persons at various times in their lives, investment in material and human capital are practical alternatives. However, interest on investment in higher education, vocational training, etc. encounters the retirement test while interest on material capital escapes the test. If anything, preference should be given to earned income since one has to work to collect the interest. The federal income tax has rather recently moved in the direction of favoring earned income for low-income families with children. The income tax, for all its shortcomings, has provisions to soften the blow of traveling and other expenses related to work, medical bills, casualty losses, alimony payments and other unfavorable events of the year. The social security test does not. Further, the test is more onerous in areas of the country where the cost of living is high. Even without considering Alaska and Hawaii, the cost of living can vary by as much as 30 percent from one city to another within the country.

The retirement test would be less objectionable to many persons if an actuarially determined increment (say 8 percent) were provided in OASI benefits for each year of delayed retirement. Persons who delay retirement beyond 65 run a considerable risk of collecting no benefits at all.

The 1977 amendments increased the delayed retirement credit from 1 percent to 3 percent per year, but only for those attaining age 62 after 1978.

Opponents of repeal of the retirement test at age 65 usually do so on grounds of the added cost to an already strained system. This added cost has been placed at 2 to 3 billion dollars a year, although these figures may be somewhat outdated. This cost would be in part offset by larger payroll, income, and other tax collections to the extent that more work effort would be provided by those over 65 if the test were eliminated at that age. I believe the extent of this extra work is usually underestimated. Admittedly, it is hard to calculate with confidence. I have based estimates on observed labor force participation rates at ages 72 and 73, when the test is no longer in effect, compared to the calculated participation rates based on the general downward trend after age 65.

On this basis, I believe that about one third of the added cost of OASI benefits would be recovered by added federal tax collections from men and women over 65. It is not usually recognized that an important consequence of repeal of the retirement test would be greater honesty in reporting earn-

ngs to the IRS. There is cross-checking between income tax and social security reports. The "price of honesty" s now so high that a sort of underground economy is promoted among the elderly. This takes the form both of avoiding employers who report dollar earnings to the IRS and, more legitimately, of working for income in kind.

The whole idea of the cost of repeal of the retirement test is a fallacy based on a narrow accounting view. Extra work effort by the over-65 group would increase the real national product and real income per capita. It is difficult to trace all of the monetary effects, which would include some improvement in state and local finances and probably a small reduction in the rate of inflation due to more output. But properly computed, the cost to the nation would be negative rather than positive.

APPENDIX III.

The Florida State University
Tallahassee, Florida 32306

September 12, 1979

Senator Barry Goldwater
United States Senate
Washington, DC 20510

Dear Senator Goldwater:

I am glad to be asked to comment on Appendix 5 of the Report of the Panel of Consultants to the 1979 Advisory Council on Social Security.

(1) I do not feel that the retirement test was made "very much more lenient for those ages 65 to 71" by the 1977 legislation. This is true for 1978 but if we experience a 10 percent inflation rate for the four year period 1979-1982 the test will rise only from $4000 to $4098, by 1982 measured in 1978 dollars. At a not-improbable inflation rate of 11 percent, smaller real earnings will be permitted in 1982 than in 1978. Most, or all, of the alleged leniency is "money illusion."

(2) The Panel (p. 89) estimates the cost of removing the test in 1982 to be about $2 billion. This cost should not be compared with the $454 million per year that I estimated as additional payroll and income tax collections, since wage rates and the payroll tax rate will be considerably higher in 1982 than in 1977. Although I do not consider the minimum wage to be the correct wage to assume for elderly workers (as was done by the Panel) the scheduled increase in the minimum wage provides a way of quickly estimating the increase in income of those over 65. This increase is 57 percent. Assuming no change in the average income tax rate for the older workers, this income increase would bring in about $122 million in added income taxes and $206 million in added payroll taxes (at a 6.70 percent rate in 1982 compared with 5.85 percent rate in 1977). This would bring my estimated total of $454 million for 1977 up to $782 million for 1982. This needs to be adjusted downward because it includes added collections from those aged 70, 71, and 72 who would already be exempt under present legislation. Since about 19 percent of the income and payroll taxes were collected from the 70-and-over group in my original calculation, deducting 19 percent from $782 million gives an estimated (roughly!) tax

collection of $633 million if the retirement test were repealed in 1982 at age 65.

(3) A factor that might well bring the amount recouped to a higher level than $633 million would be greater honesty in reporting income for income tax purposes on the part of social security recipients. The "price of honesty" is now especially high because honest disclosure can increase income tax liability and also reduce social security benefits because of cross-checking between income tax returns and earned income statements sent to the local Social Security office. The lower "price of honesty" which would accompany repeal of the retirement test would increase income tax receipts. The importance of this is hard to judge but it seems to be conservative to say that it would bring the government's recoupment to at least one-third of the estimated $2 billion cost.

(4) The Panel's minimum estimate of 5 to 10 percent of cost seems much too low. While I cannot easily defend my estimates as being "best" I do believe my chart on added labor force participation looks reasonable and that there would not be such widespread dissatisfaction with the retirement test if it really had so little influence on the desire to work. (I have some letters protesting the test and I am sure you have great numbers.)

(5) Looked at in real terms there would be a negative cost to the nation in eliminating the retirement test, although there would be distributional effects that some persons would not favor. (The extremely progressive benefit schedule holds down the extent of such redistribution, however.) Real output of the economy would rise because of added labor force participation by the over-65 group. (Any adverse effects on younger workers would only partially offset this output gain.) It is probably unwise to pay attention just to dollar receipts and expenditures, rather than to the "real" economy. If, for example, SSI were moved into general revenue financing, the financial situation of OASI would look better.

The estimates that I have made above are rougher than I would have liked because I am presently busy writing a paper on regional aspects of minimum wage legislation for the American Enterprise Institute, which has to be finished this month.

After the minimum wage paper is finished I will return to work on a book for AEI Universal Coverage Under Social Security. One problem will be to secure as speedily as possible the federal

government's report on the subject due in Decenber 1979.

I hope the above is of some use to you.

With best wishes,

Marshall R. Colberg

Marshall R. Colberg
Professor of Economics

MRC:nlg

APPENDIX IV.

Tax Impact From Elimination of the Retirement Test

by Josephine G. Gordon and Robert N. Schoeplein*

The OASI eligibility provisions include a retirement test (or earnings test), and in 1979 aged beneficiaries who are under age 72 give up $1 in current benefits for each $2 of annual earnings above $4,500. If the retirement test were eliminated, total OASI payouts would increase because aged workers would no longer forfeit benefits. Aged workers also might increase earnings or delay retirement if this penalty on work effort were removed. Increased earnings would generate additional OASDHI taxes and individual income taxes. This article examines the fiscal effects on OASI benefit payouts and increased tax receipts if the retirement test were eliminated.

This article estimates the initial-year net changes in social security (OASDHI) tax receipts and Federal individual income-tax receipts if the social security retirement (or earnings) test were eliminated for individuals aged 65–69. Individuals under age 65 are not considered.[1] The expenditure tax estimates shown are for 1978 but with the 1982 earnings ceiling adjusted to 1978. Persons aged 70 and 71 will not be subject to an earnings test in 1982 and are therefore excluded from the study. Thus, in 1978 levels, the budget impact of changing the 1982 retirement test for persons aged 65 and over is estimated.

Under the present provisions of the Social Security Act, elderly workers insured to receive OASI benefits at age 65 who earn income above an allowable amount will forfeit their current benefits at a rate of $1 for each $2 of excess earned income. Workers aged 62–64 who retire early and forfeit OASI benefits are compensated by actuarially adjusted future benefit increases equivalent to current benefits forgone, but the adjustments to workers aged 65 and over represent only a fraction of benefits forgone because of the retirement test.

The tax impact estimates shown here are based on a 1978 sample population but incorporate known 1982 tax provisions. Current individual income-tax statutes are assumed to remain in effect in 1982, and the $6,000 allowable earnings ceiling in 1982, adjusted to 1978, is used. The 1982 social security tax rates are used. The simulated net changes in the budget are therefore designed to reflect two 1982 provisions of social security law: (a) A liberalization in the retirement test under the 1977 amendments between now and 1982 that reduces benefit costs in eliminating the test and (b) higher OASDHI tax rates that increase the tax revenue per dollar of additional taxable earnings generated by removing the earnings test.

The social security actuaries estimate that the additional benefit payout cost to the OASI trust fund, if the retirement test were eliminated for workers aged 65–69, is approximately $2.1 billion for the 1982 earnings ceiling adjusted to 1978. It is estimated here that the net changes in work effort by elderly workers still actively employed (part time and full time), if the test were eliminated, will generate $139 million in OASDHI tax receipts and $191 million in individual income-tax receipts or about 16 percent of the $2.1 billion increase in outlays. If 10 percent of workers aged 65–69—either fully retired or contemplating retirement—were to be fully employed in the labor force in 1978, these workers would generate an additional estimated $540 million in social security taxes and $786 million in individual income taxes. With these elderly current workers and continuing or returning fully retired workers considered together, the estimated net increase in social security tax receipts represents about 32 percent of additional benefit payouts, and individual income taxes generate about 47 percent of additional benefits. The projected increases represent about 79 percent of estimated increased OASI benefits.

The study's methodology reflects the precedent of others who recently have studied the retirement test. Because there

* Office of Research and Statistics, Office of Policy, Social Security Administration. The cooperation of Roy Wyscarver, Office of Tax Analysis, Department of the Treasury, in programming and providing tax revenue estimates from the Treasury Individual Income Tax Model is acknowledged, as is the constructive criticism and suggestions from Rudolph Penner, member of Consultant Panel of Actuaries and Economists, and from Benjamin Bridges, Jr., Lucy Mullen, and David Podoff of the Office of Research and Statistics.

[1] The labor-force response of the group aged 62–64, since many are not receiving early retirement social security benefits, poses additional estimating problems. For working couples where the principal wage earner is aged 65–69, the working spouse, regardless of age, is considered in some specific calculations.

is no previous experience with the elimination of this test, cross-sectional data based on elderly workers' responses to net wage-rate changes under other circumstances, such as the effects on net earnings under negative income-tax experiments, are used. No evaluation of labor-market demand conditions is made. That is, it is assumed that elderly individuals who want to expand work effort or seek new employment because of the elimination of the retirement test will find jobs and that other labor-force participants will not be displaced or have their wage rates depressed by an expanded number of elderly workers.

In this study, workers aged 65–69 who are active in the labor force are treated separately from fully retired workers (former workers who have no earned income in 1978). Most earlier studies considered only the response of elderly workers still active in the labor force. About 70 percent of the workers aged 65–69 covered under social security are fully retired. Some individuals now fully retired may return to the labor force if the earnings test is eliminated; other workers now reaching age 65 and contemplating retirement may postpone their retirement 1 or 2 years. A working assumption that, in a given year, 10 percent of such individuals either will return to work or continue working full time is adopted here.[2] (Estimates are also presented for a 5-percent assumption.) This assumption is critical to the tax-impact estimates, as these returning or continuing workers would account for about 80 percent of the total estimated net tax increases under the 10-percent assumption.

Previous studies also limited the tax-impact estimates either to surveys of married men or to projections based on average earnings of the aggregate labor force. This study uses the Individual Income Tax Simulation Model of the U. S. Treasury (1975 data base, statistically adjusted to 1978 levels and tax law).[3] This simulation model provides a basis for analyzing earnings of individuals, couples with only a single wage earner, and working couples as tax units. (See Technical Note No. 2 for further description of Treasury tax simulation model.)

The following section of the article focuses on possible responses by workers aged 65–69 who are still active in the labor force. The impact on individuals aged 65–69 who are fully retired in 1978 is discussed next. The concluding section integrates the tax-impact estimates for both working and currently retired individuals and examines the sensitivity of critical working assumptions.

Response by Working Individuals Aged 65–69

If the earnings of an elderly worker exceed the permissible earnings ceiling, the penalty tax of 50 percent is imposed until the worker's social security benefits under the current law are exhausted. The net wage concept used here is the gross wage minus individual income taxes, social security taxes, and the allocated forfeited social security benefits. A repeal of the current retirement test, therefore, would have the effect of more than doubling the net wage rate over the range of taxed earnings.[4]

When hourly wages of workers rise, two components determine consequent labor-supply response. The more attractive wage rate encourages an individual to expand work effort and thus to substitute more work hours for reduced leisure hours. At the same time, individuals in the taxed range realize more income for a given amount of work effort. This income effect induces workers to reduce the amount of labor they supply because of their higher incomes. The direction of change in an individual's work effort, if any, is the net of these two opposite-direction effects. Workers with high annual earnings who previously forfeited the entirety of current social security benefits then would receive these benefits. These high-earnings workers, therefore, would be wealthier by the amount of the retirement benefits and might reduce work effort in response to higher family incomes.

The behavior of workers following changes in net (after-tax) wages depends on sex, age, marital status, unearned income sources, assets, and other considerations.[5] A wife, for example, has been shown to respond more dramatically in adjusting work effort to a change in family income than the husband. The wife might, in fact, drop out of the labor force altogether as her husband's earnings increase.

The literature on labor-supply response to earnings changes is vast.[6] In narrowing the range of worker response to provide some guidance for policy, one must evaluate why the estimates differ from one study to another. Some studies focus on the estimated or actual effects of negative income-tax experiments. Although older workers were included in some negative income-tax analyses, subjects tended to be young and observed earnings tended to be lower than the earnings range relevant for the retirement test. Other studies focus on worker response to wage-rate changes at all earn-

[1] Phillip Cagan, Effect of the Elimination of the Retirement Test on OASDI Revenues (Working Paper for the Panel of Actuaries and Economists, 1974 Advisory Council on Social Security), Social Security Administration, September 18, 1974.

[2] Department of the Treasury, Office of Tax Analysis.

[3] Income-tax deductions will vary among individual workers. In converting net wage elasticities to labor-response multipliers, abstracts were made from income taxes and it was assumed that retention of the 50-percent implicit earnings-test tax penalty would double the net wage. The net wage multipliers and the consequent net increase in taxes were therefore understated somewhat, although the understatements are not believed to be significant. Given the procedure in selecting net wage elasticities, such further fine tuning would be pretentious.

[4] The net change in work effort is further referred to as a labor-supply multiplier. The value of this multiplier can be thought of as an average response over all workers in a particular class to a wage change.

[5] Summary tables appearing in Glen C. Cain and Harold W. Watts (editors), Income Maintenance and Labor Supply, 1973, table 9.1, and Stanley Masters and Irwin Garfinkel, Estimating the Labor Supply Effects of Income Maintenance Alternatives, 1977, table 3.7, demonstrate the wide range of labor-supply elasticities estimated in 13 separate recent studies. Though the methodological and econometric problems inherent in estimating labor-supply elasticities have become an intriguing academic subject, this is no solace to policy analysts who must make tax-revenue estimates based on some specific elasticity figures.

ings levels within the sample, but the highest individual or family earnings sampled were constrained to a low ceiling. Some studies use as "wage rates" the individual's wage rate as reported for the week before an interview; other reports employ wages and fringe benefits as reported over a longer period such as 6 months. These considerations are taken into account together with the availability of elasticity estimates specific to elderly individuals and elderly couples with one or both spouses working. The rationale for the specific labor-response multipliers is discussed later.

All labor-supply effects presume a set of underlying assumptions about labor-demand conditions and underlying labor-market structure. In this study it is assumed that the economy will provide increased employment for the elderly without concurrent adverse effects on other workers. It is also assumed that the structure of the labor market for elderly workers remains unchanged from the recent past. That is to say, new government incentives to hire the elderly are not assumed. Consequently, the emphasis is placed on the labor-supply side of the market, given the above demand conditions.

Stratification

All empirical evidence of workers' labor-supply response to a change in the wage rate indicates that annual earnings as well as marital status are important determinants of the change in hours worked. The data file of the Department of the Treasury makes possible identification of the earnings both of principal wage earners and working spouses, so that each may be treated independently and also as a joint household with regard to labor-supply response. The sample of workers has been divided into three broad categories according to marital status and current labor participation. Each broad category, in turn, is subdivided into four relevant income classes.

Initially, the elderly population is divided into three all-inclusive groups of principal taxpayers (or potential taxpayers): individuals, principal taxpayer with spouse earning zero income, and principal taxpayer with spouse earning greater than zero income.[7] To account for the variation in behavior related to the level of earnings, the three groups are further divided into four earned-income categories.

Workers earning below the $4,500 earnings ceiling would not receive any additional social security benefits if the retirement test were to be eliminated. Thus, they would experience no income effect. The labor-market behavior of workers earning between $1-3,600—substantially less than $4,500—would not be expected to change as a result of a change in the net wage rate. These workers are therefore assumed to be unaffected by elimination of the test.

[7] The division of workers is based on type of individual income tax return rather than on sex. The individual returns include those of unmarried men and unmarried women. The relevant literature (specifically, Boskin) indicates that labor-supply elasticities of single elderly women workers are approximately equal to single elderly male workers. No adjustments for sex are necessary in this instance.

The labor market may not be perfectly flexible, however, as workers may not be able to control their hours of work so that earned income is just below the $4,500 ceiling or to accept work effort that would generate earnings above $4,500. Moreover, workers exceeding the allowable earnings ceiling have burdens in the form of social security forms, disrupted social security benefits, and other considerations.

This group who would be potentially affected by elimination of the earnings test because of their proximity to the earnings ceiling is represented by workers currently earning $3,601–4,500. These individual workers, having forfeited no benefits, would then experience only a substitution effect on the portion of their earnings above the $4,500 ceiling that would have been taxed before the repeal.[8]

The third class is composed of those workers earning more than the $4,500 ceiling who are subject to the tax on the earnings above the ceiling but not enough to lose all their benefits. This group would experience both a positive substitution effect and a negative income effect.

Because some families have one beneficiary and others have two beneficiaries and because of the way the social security law treats beneficiaries with a working spouse, determination of the upper boundary on this classification is more complex.[9] The figure $10,464 represents the level of 1978 earnings at which all benefits are forfeited by single individuals who would receive the current average annual social security benefits when benefits are not reduced because of the current earnings test.[10]

This figure would thus become the upper boundary for all individuals not filing joint returns. Since spouses not qualifying for their own benefits receive half the benefits of the worker, the figure $14,482 is the level at which benefits disappear for worker and nonworking spouse, on the average; $14,482 has therefore been chosen as the upper boundary for this group. When both worker and spouse are employed, however, the earnings of the wife above the ceiling will only affect the amount of her benefits and not those of the husband. Both workers in families affected by the earnings ceiling were therefore treated separately, and the lower $10,464 level at which all benefits are exhausted was applied to each of them.

The fourth class of workers aged 65–69 consists of all workers with earnings above their respective upper boundaries. These are individuals earning more than $10,464, primary wage earners earning more than $10,464 with a working spouse, and couples with joint returns and only one worker with earnings above $14,482. This class of workers currently would receive no OASI benefits because their

[8] For two-worker couples, cross-elasticity effects also must be considered.

[9] Although it is possible for families to have more than two beneficiaries, for purposes of the study, the two relevant members are the worker and the spouse.

[10] The figure of $10,464 is the adjusted $4,500 allowable earnings plus twice the SSA-estimated 1978 average OASI benefits for retired individual workers aged 65–69.

high earnings. They would receive the entirety of their benefits if the retirement test were eliminated and would therefore be subject to an income effect, reducing work effort.

Estimates

To estimate new tax revenues generated from elimination of the retirement test, one must make specific assumptions regarding labor-supply responses to wage changes for the sample of elderly workers. These assumptions are selectively chosen from studies on labor-supply behavior.

As indicated, previous studies on labor-force response in work effort to changes in net wages have been confined to cross-section analyses of observed or constructed negative income-tax experiments or to statistical analyses of general labor-force behavior. Two rather extensive studies are a collection of independently authored articles edited by Cain and Watts and a more recent analysis by Masters and Garfinkel.[11]

Age, sex, race, and marital status each affect worker response to net wage rates. One labor-supply study that includes labor elasticity estimates based on the above considerations is by Michael Boskin.[12] Boskin's study in the Cain and Watts collection includes a detailed section on elderly workers. He also considers cross-wage effects on labor supply where both husband and wife are working. In this area of study where the range of labor-supply elasticity estimates is so large, one must exercise personal judgment in identifying those studies that seem "reasonable." The elasticity estimates for studies most frequently cited and used tend to cluster in a significantly narrower range than for all such studies as a group. It is believed that Boskin's labor-supply elasticities are median or representative of the findings in these "more reliable" studies.

The Boskin study nevertheless has some specific data limitations or other characteristics in research design that necessitate adjustments for this article. Boskin's elderly workers are aged 60 and over. The net wage effects of changing wages on hours worked decrease with age. The presence of workers aged 60-64 in Boskin's elderly-worker estimates may tend to overstate labor responses by workers aged 65-69. Likewise, the presence of workers aged 70 and over may be a downward bias. No effort is made to adjust the Boskin estimates solely because his study population is aged 60 and over.

Moreover, the Boskin estimates of the substitution effects of elderly working wives must be reevaluated in the context of Masters and Garfinkel. The question is one of relative magnitudes. Boskin found the relative sensitivity be elderly working wives to changing net wage rates to be eight times that of their respective husbands. Masters and Garfinkel estimated the same response by elderly working wives to be two and one-half times that of their respective husbands. Boskin's estimates on this specific subgroup are not clear, although the present authors feel that use of this specific elasticity estimate would significantly distort and discredit the overall tax-revenue effects outcome. In this study, therefore, the estimated substitution effects of elderly working wives were recalculated using Boskin's methodology for consistency and Masters and Garfinkel's estimates of relative net changes for working spouses in their hours worked.[13]

Summarized below are the direct total labor-supply elasticities as used to estimate the tax impact on workers aged

Type of worker aged 65-69	Elasticity coefficient[1]		
	Total direct wage	Labor-supply income	Elasticity substitution
Unmarried men and women	0.16	-0.03	0.19
Working wife	.40	.40	.53

[1] Income elasticity, wage elasticity, income substitution elasticity. Income elasticity estimates reproduced here differ from the practical rule because of unique characteristics of the respective analyses of changes in work effort.

65-69 and still active in the labor force, if the retirement test were eliminated. Other than the changes mentioned above, the elasticity estimates represent those that appear in Boskin,[14] with both races aggregated by the weights of black and white workers in the sample population.

The labor-supply wage elasticity (sometimes identified as the "net wage" elasticity) is the combination of the substitution effects and income effects when the net wage rate is changed. The wage-elasticity coefficient is an estimate of a relative change in hours of work effort in response to a specified relative change in net hourly wages. The wage-elasticity coefficient of .16 for unmarried men and women and for working husbands can be interpreted to mean that a doubling of the net wage rate will cause an average 16-percent increase in work effort for these individuals taken as a group.

It is assumed that the gross wage rates of workers would remain unaffected by the elimination of the retirement test. With this assumption the labor-supply elasticities can be converted to labor-response multipliers, with respect to the net wage effects alone. For two-worker couples, changes in work effort were jointly determined, thereby taking into

[11] Glen G. Cain and Harold W. Watts (editors), Income Maintenance and Labor Supply, Institute for Research on Poverty, 1973, and Stanley Masters and Irwin Garfinkel, Estimating the Labor Supply Effects of Income Maintenance Alternatives, Academic Press, 1977.

[12] Michael J. Boskin, "The Economics of the Labor Supply," in Glen G. Cain and Harold W. Watts (editors), Income Maintenance and Labor Supply, Institute for Research on Poverty, 1973.

[13] This integration of two separate studies with somewhat different population sample bases for purposes of adjusting only one labor-supply elasticity estimate is open to criticism. Masters and Garfinkel do not provide husband-wife cross-elasticity estimates (they assume such cross-substitution effects are relatively unimportant) and have other limitations. In the absence of other alternatives, it is believed that the recalculated Boskin estimate of working wives' substitution effect response is a reasonable approximation.

[14] Michael J. Boskin, op. cit.

account cross-elasticity effects of changes in the earnings of the principal worker (or in social security benefits) on the other spouse's work effort. The relevant labor-response multipliers and adjustments necessary to estimate net changes in work effort and tax liabilities for individuals and couples in each earnings class are also presented in the preceding tabulation.

One can see from table 1 that for 1978 the simulated work behavior of those persons aged 65–69 and presently working and of working spouses would generate $138.7 million of payroll tax receipts if 1982 payroll tax rates were employed. This amount represents 6.6 percent of the estimated $2.1 billion increased benefit-payout costs of eliminating the earnings test for persons aged 65 and over. The distribution of payroll tax revenues among OASI, DI, and HI trust funds are shown in table 2.

It should be recognized that this 6.6 percent reflects the conceptual approach most often used in previous studies. It does not include individual income-tax revenues that would accrue to the general fund of the Treasury. When the $191.3 million in income-tax revenues are included, the recoupment of benefit payments rises to 15.7 percent. In addition, not included are any tax revenues that would be generated from the group of persons who are currently retired but may choose to return to work or continue working.

Table 1.—Number of workers and change in earned income, income taxes, and OASDHI taxes resulting from elimination of retirement test, by earned income of workers aged 65–69, 1978

[Estimates in thousands]

Earned income	Number of workers[1]	Change in— Earned income	Individual income taxes	OASDHI taxes[2]
Total	3,892,875	$1,035,580	$191,336	$138,736
Individual				
$1–3,000	866,909	0	0	0
3,001–4,908	35,693	20,870	3,163	2,864
4,909–10,000	229,490	252,361	51,296	33,817
10,001 or more	120,290	11,292	3,879	9,512
Married, principal wage earner with nonworking spouse				
$1–3,000	427,843	0	0	0
3,001–4,908	42,707	24,351	2,826	3,526
4,909–14,092	362,114	432,833	79,614	57,973
14,093 or more	197,179	26,826	9,100	3,406
Married, principal wage earner with working spouse				
$1–3,000	149,295	0	0	0
3,001–4,908	22,208	12,301	0,187	1,856
4,909–10,000	130,466	155,843	17,322	20,776
10,001 or more	140,966	19,400	5,359	2,808
Working spouse[3]				
$1–3,000	329,624	(4)	(4)	(4)
3,001–4,908	83,124	53,382	3,732	6,849
4,909–10,000	263,536	184,879	44,234	34,466
10,001 or more	162,707	22,192	2,403	2,971

[1] Includes all workers aged 65–69 classified as individuals or principal wage earners for income-tax purposes, and all working spouses of principal wage earners aged 65–69. All working spouses, regardless of age, could be affected by changes either in total household income or earnings of the principal wage earner.

[2] Based on 1982 combined employer-employee tax rate of 13.4 percent.

[3] Total number of working spouses equals total number of principal wage earners with working spouse when the 548,301 principal wage earners with zero earned income are included. See discussion, see section beginning in text column.

[4] No change in work behavior is assumed because the computer program, when applied to this specific group, uses an assignment of income that results in small or zero tax increases even though earnings would decline.

Table 2. Change in earned income and OASDHI taxes resulting from elimination of retirement test of retired workers aged 65–69, by type of worker, 1978

[Estimates in thousands]

Type of worker aged 65–69	Change in— Earned income[1]	OASDHI taxes Total	OASI	DI	HI
Total	.....	$678,814	$483,302	$63,564	$131,671
Current worker	$1,035,580	138,736	94,736	17,063	26,939
Retired worker (percent of selected workers)	4,020,933	539,879	388,749	46,678	104,732
Percent of change in taxes[2]	.....	13.4	9.1	1.6	2.6

[1] Based on 1982 combined employer-employee tax rates.

Impact of Test on Retired Workers

An estimated 5.7 million retired workers aged 65–69 received OASI benefits in 1978. One criticism of previous studies (other than Cagan[15]) on the impact of eliminating the retirement test is that possible reactions by these retired workers are ignored. The rationale in other studies for ignoring retired workers is based on the assumption that markets for labor services are reasonably competitive. If conditions were competitive, individuals could freely adjust the number of hours they work in response to changing wage rates. Retired workers alternatively could work up to the earnings ceiling without penalty. It follows from the basic assumption that these retired individuals prefer retirement to any work at all.

Alternatively, one can argue that many labor markets place serious institutional constraints on individuals in the adjustment of their hours of work. Some workers in their sixties may be confronted with "all or nothing" options. Opportunities for reasonable part-time employment for older workers may be scarce in some local labor markets. Workers approaching age 65 may have to choose between continuing current full-time employment for at least one more year, switching to an alternate occupation (perhaps at reduced hourly wages) close to full time, or stopping work completely.

Under these circumstances, the worker aged 65–69 i face the current forfeiture of most or all of social security benefits if he or she continues working full time. Worker

[15] Phillip Cagan, op. cit.

attitudes toward retirement might change if the test were eliminated at age 65 (and maintained for covered workers aged 62–64).

Sparse information is available on retired workers' attitudes toward returning to work or on what the effect on workers' retirement plans would be if the retirement test were eliminated. Two recent studies based on the Social Security Administration Retirement History Study focused on the availability of retired persons for work and on determinants of retirement. Both studies indicate that few persons who retire would return to work if net wage rates were increased, but these studies are handicapped because respondents were interviewed about retirement or work while under the cloud of an existing retirement test. Dena Motley[16] in reporting on former workers aged 62–67 concludes that it appears that no more than 12 percent of such retirees would be very likely or even able to return to work. Joseph Quinn[17] in studying the determinants of early retirement noted that he could discern no evidence that an individual's wage rate or change in wage rate was an important determinant of retirement status: Quinn was cautious in interpreting this particular observation, however, as the insignificance of wage rates in the retirement decision may be a consequence of the earnings restriction itself. Other facets of the decision to retire as highlighted by Quinn also complement Motley's findings on the decision to return to work after retirement.

What about workers who have not yet retired? It is known that in 1975 a total of 464,000 workers aged 62, or 32.7 percent of all permanently insured workers aged 62, elected reduced early retirement benefits. More than 209,000 additional workers aged 63 and 123,000 workers aged 64 elected early retirement during that year. Cumulatively, 54.1 percent of permanently insured workers aged 64 were receiving early retirement benefits in 1975.[18]

Social Security Administration data from 1975 indicate that 69.5 percent of retired workers aged 65–69 and receiving OASI had elected early retirement benefits.[19] The vast majority of retired workers in this age class, therefore, have been out of the labor force 2–7 years. In the first year of impact of eliminating the retirement test, what percentage of these retired individuals would be able to find gainful full-time employment?

If the retirement test were eliminated, the policy action might affect early retirement decisions of individuals who are not yet aged 62. Some individuals who view the test as a barrier to work at age 65 may see it as a further impetus to an early retirement decision. (Early retirement is not effectively penalized under the Social Security Act, since the OASI benefits are actuarially adjusted.) Other individuals may increase their work effort in the years immediately before age 65 because they feel that the presence of the current test precludes further work after age 64. Again, no definitive basis exists for predicting the response of those potentially retiring early if the test were removed.

In summary, it can be expected that some retired workers aged 65–69 would reenter the labor market if the retirement test were eliminated. Some workers approaching a decision to retire early or to retire now could also be expected to continue their current employment at least through age 65. No previous studies were available that would provide any basis to estimate the relative magnitudes of individuals involved.

Estimates

The Treasury Department's statistically merged file of the SOI-SIE survey[20] provides estimates of all individuals and couples who file an income-tax return and of those who do not file a return. The sub-file for this study, therefore, approximates the total population aged 65–69. One difference is that the sub-file of the present study includes all couples where the principal wage earner is aged 65–69 although the spouse is not necessarily in this age bracket.

Each individual in the population must be counted either in individual (including all categories not joint) tax returns or joint tax returns, whether actually filed or constructed. A specification of "retired" is used for workers aged 65–69 with zero earned income in 1978.[21] The OASI benefits of the completely retired workers are reported in the SOI-SIE survey and statistically merged with Treasury records.

The principal wage earner on joint returns is identified as the retired individual with the greater OASI benefits. This individual in most instances is the husband. One cannot discern from the OASI benefits of the spouse (most likely the wife) whether he or she has previously worked or is drawing benefits as the wife or husband of a retired worker.[22] The spouse with zero earned income in 1978 is excluded from the base of retired workers who might return to the labor force. The basis for the estimates of retired workers returning to employment because of the elimination of the test is therefore restricted to all retired individuals and all joint-return retired principal wage earners.

This exclusion of spouses with zero earned income in

[16] Dena K. Motley, "Availability of Retired Persons for Work: Findings from the Retirement History Study," Social Security Bulletin, April 1976.

[17] Joseph Quinn, "Microeconomic Determinants of Early Retirement," Journal of Human Resources, summer 1977.

[18] The number of individuals aged 64 with early retirement benefits in 1975 is the sum of early retirees aged 62 in 1973, aged 63 in 1974, and aged 64 in 1975. Disabled workers are excluded from consideration.

[19] Two separate groups of retired workers in 1975 are viewed. The first group are OASI permanently insured workers aged 64 in 1975. Within this group, 54.1 percent were receiving early retirement benefits. The second group consists of permanently insured workers aged 65–69 in 1975 who are retired. 69.5 percent of this group were receiving early retirement benefits.

[20] Office of Tax Analysis, Department of the Treasury, Statistics of Income; Bureau of the Census, Survey of Income and Education, 1978.

[21] This is a most stringent specification of "retired" and may differ from alternative concepts of "retired" as used in some Social Security Administration tabulations.

[22] Spouses with positive 1978 earnings are discussed in the section on individuals still active in the labor force. The principal taxpayer in this study must be aged 65–69; spouses may be any age.

1978 does introduce some biases in estimation. The pool of retired workers is understated by the number of previously working spouses. The average earnings of workers who would return or remain in the labor force is biased upward by restricting the analysis to principal wage earners. Moreover, one spouse may be more likely to defer retirement if the other spouse is still active in the labor force.

Only retired workers who are qualified as permanently insured for OASI benefits are potentially affected by the presence of a retirement test. All retired individuals and retired principal wage earners who are not receiving OASI benefits therefore are also excluded from the pool of potential workers. Some of these workers are retired on government pensions. The noncovered retirees in 1978, however, tend to be dominated by low-wage and part-time workers. Exclusion of these retirees also further biases the potential worker pool toward individuals with higher average wages. In addition, for some retired workers presently receiving old-age benefits, the constructed average annual earnings when projected to 1978 would be less than the current $4,500 retirement earnings ceiling. For these low-wage retired workers, presumably, the decision to return to work is unaffected by the presence or elimination of the test, and they have been excluded from the tax effects estimates. These three considerations mutually reinforce the bias in the subset of retired workers who potentially would continue work or return to work toward those workers with records of median or greater than median previous earnings. The opportunities for further employment also may be greater for this subgroup than for total retired workers.

An estimated 3 million retired workers are the basis for potential reentrants into the labor force if the retirement test is eliminated, as the figures that follow show.

Item	Estimates (in millions)
Retired workers	9 ·
Permanently insured[1]	3 n
Individuals who are principal wage earners[2]	
Individuals or principal wage earners with constructed annual earnings above $4,500[3]	3 0

[1] Adjusted from Social Security Administration 1977 preliminary data
[2] As classified on Treasury merged file. Excludes retired spouses
[3] As classified on Treasury merged file. Excludes retired persons with low earnings

Since these individuals are identified as "retired" because they showed no earned income in 1978, potential full-time earnings have to be constructed. The first step is to use annual OASI benefits received as the basis to determine "average monthly earnings" (AME) under the Social Security Act. The available AME for each retired worker aged 65–69 is an average of covered earnings for 14–19 years before retirement and therefore understates representative earnings for 1978. The AME, in turn, is adjusted upward by the annual percentage increase in average hourly earnings of workers covered by the social security program in each of the 9 years 1970–78. The 1978 average of the consequent constructed average earnings of all relevant retired workers (spouses with previous work history and constructed low-wage workers excluded) is $13,470. This amount can be compared with the Office of the Actuary estimate of $10 1·9 for the average annual earned income of workers currently contributing to the system in 1978 (with no distinction between part time and full time), based on average taxable earnings for the first quarter.

The income-tax returns of the sample individuals (individual and joint returns) were recalculated on the assumption that the individual or the primary household wage earner would realize his constructed earnings based on the adjusted AME if the retirement test were removed. The fact that the AME is calculated on OASI taxable earnings will understate the potential of high-wage workers whose previous earned incomes exceeded the taxable maximum. In the other direction, elderly individuals might not be able to continue work or resume work at wage rates as high as those enjoyed in the years immediately before retirement age.

Net tax-liability changes were calculated for all fully insured retired workers with constructed annual earnings above $4,500 who were classified as individuals (and all other returns not joint) and primary household wage earner on joint returns, whether or not such returns actually were filed. One-tenth of the net changes in income tax and payroll tax liabilities is then taken as representative of 10 percent of this select group of retired workers who defer retirement or return to work at annual earnings estimated from their adjusted AME. The taking of one-tenth of total tax-liability changes attributed to these retired entitled workers assumes that the 10 percent of retired workers who do return to work are representative of this group as a whole. This may not be the case. Dena Motley[2] noted that the maximum 12 percent of retirees who would be very likely or even able to return to work is biased toward the less-educated who had worked predominantly in blue-collar jobs with more modest earnings.

Table 3 summarizes the tax effects in eliminating the retirement test for permanently insured retired individuals and primary wage earners aged 65–69. The selection of 10 percent as an upper boundary—as the proportion of the select group of retired workers aged 65–69 (including retiring workers aged 65) who would continue full-time employment—is a personal judgment. Phillip Cagan[3] also based his estimates on the assumption that 10 percent of such retired workers continued or returned to employment full time. He notes, "As an illustration of what seems a large number but which is still conceivable, suppose 1 10 (of retired workers with no earnings) worked full-time. . . . Some of the panel find this far too high an estimate, but it does illustrate a range of possibilities for this large group for which no firm basis for an estimate exists."

[2] Dena K. Motley, op. cit.
[3] Phillip Cagan, op. cit.

Table 3.—Number of workers, change in earned income, and increase in income taxes and OASDHI taxes resulting from elimination of retirement test, by income-tax filing status of retired worker aged 65–69, 1978

[Estimates in thousands]

Income-tax filing status	Number of workers[1]	Change in earned income	Increase in—	
			Individual income taxes	OASDHI taxes[2]
Total	299,000	$4,020,933	$706,650	$339,877
Individual[3]	148,000	1,994,685	313,130	172,661
Married principal wage earner	151,000	2,736,648	393,520	166,416

[1] Represents 10 percent of filed and nonfiled returns of retired workers with nonexempted annual earnings of above $4,500.
[2] Based on 1982 combined employee-employer tax rate of 13.4 percent.
[3] Includes filed and nonfiled returns of single persons, married persons filing separately, and heads of households.

The present study stresses that the suggestion is not necessarily that all the workers in this group would come out of complete retirement and return to the labor force full time because of the elimination of the retirement test. Ten percent of the select group represents 299,000 workers aged 65–69 who otherwise would be in full retirement. It could be suggested that, with 1975 data used to determine relative weights, the interpretation could mean that about 25 percent (111,000) of the estimated 446,000 permanently insured workers who retired in their sixty-fifth year in 1978 would continue full time for one more year (with one-half, or 56,000, of these "extended" workers continuing for 2 more years) and that about 5 percent, or 132,000, of the remaining relevant permanently insured retired workers would return to the labor force full time, solely because of the elimination of the retirement test.

Since these figures are merely illustrative, other combinations are possible—those continuing work beyond age 65 and retired workers returning to the labor force—that will add to the total of 299,000. The above illustration does show, however, the importance of relative weights of different decisions that individuals within this age class must make: To continue current employment, to seek alternate employment, to retire, or to return to the labor force from retirement.

It is felt that the aggregate 10 percent of these retired workers aged 65–69 returning to or continuing work full time for at least one more year because of the elimination of the test is a reasonable upper boundary. Even in the absence of mandatory retirement provisions, elderly workers who now are retiring are constrained by many considerations from continuing employment or returning to the labor force. No basis for an alternate figure is apparent.

Conclusion

One can combine the net tax-revenue changes of current elderly workers returning or continuing in the labor force to obtain the total estimated tax-revenue effects in eliminating the retirement test. These estimates are contingent on the key assumptions used in selecting labor-response multipliers for current elderly workers—the assumption that 10 percent of retired workers aged 65–69 would either return to or continue in the labor force—and other judgments. Table 4 summarizes the net tax-revenue effects.

Table 4.—Increase in OASDHI taxes and individual income taxes resulting from elimination of retirement test, by type of worker aged 65–69, 1978

[Estimates in thousands]

Type of worker aged 65–69	Increase in—	
	OASDHI taxes[1]	Individual income taxes
Total	$678,613	$977,774
Current worker	130,736	191,324
Retired worker—10 percent of retired workers	539,877	786,450

[1] Based on 1982 combined employee-employer tax rate of 13.4 percent.

The Office of the Actuary estimates OASI benefit payouts in 1978 as $2.1 billion if the retirement test were eliminated for those aged 65–69. The $678.6 million increase in payroll taxes is calculated with a 1978 data base and 1982 OASDHI tax rates. The 1982 OASDHI tax rates are applied because of the known statutory increases in tax rates for 1982. [25]

The increase in payroll taxes, as calculated, represents a 32-percent offset to the estimated increase in social security payouts. Note that, although the OASI trust fund will bear all the additional cost benefit payments, only a portion of the estimated payroll taxes generated will flow into this fund. The balance will be distributed between the DI and HI trust funds as table 2 shows.

The estimate that increased payroll tax receipts would be 32 percent of increases in OASI benefits can be compared with estimates by Cagan. [26] Cagan noted that when one also considers retired workers, his calculated $830 million increase in payroll taxes (OASDI only) would be 33.2 percent of his $2.5 billion increase in OASI benefits payouts in 1975. He used the 1975 retirement test and OASDI tax rates. Since that time the test has been liberalized and is to be eliminated for beneficiaries aged 70–71 so that the number of workers affected by the test will be reduced and the estimated OASI benefit payout is down to $2.1 billion in 1978.

The estimated increase in individual income-tax receipts because of increased earned income is $977.8 million. If one were to add the estimated increase in payroll taxes and individual income taxes, the combined figure of $1,656

[25] Given the decoupled system, increases in benefits and wages between 1978 and 1982 for the new cohort aged 65–69 should be roughly equal. The increase in the tax rate represents a "net" increase in the proportion of the increase in benefits offset by additional tax revenues.

[26] Phillip Cagan, op. cit.

million for increased receipts in the "unified budget" represents about 79 percent of the increase in OASI benefit payments with the retirement test eliminated for workers aged 65-69. The $977.8 million in additional individual income-tax receipts presumably would be part of general funds, with the $678.9 million payroll tax receipts credited to the respective social security trust funds.

The response by retired workers to elimination of the retirement test is crucial to the tax revenue estimates. Removal of the test may affect the decision to retire as well as considerations to return to the labor force from retirement status. The potential pool of affected workers is a select subset of all retired workers aged 65-69 receiving OASI benefits in 1978. Note that an assumption of workers continuing or returning to the labor force equal to 10 percent of select current retired individuals aged 65-69 may be interpreted as 25 percent of workers currently retiring at age 65 and continuing full-time work for at least one more year, with one-half of these workers continuing for a second year, and 5 percent of the remaining retired workers returning to the labor force. Likewise, an assumption of 5 percent of select retired workers continuing or returning to work may be interpreted as 13 percent of retirees aged 65 continuing at least one more year, with one-half of these individuals maintaining employment a second year, and 2 percent of select retired workers returning to the labor force. Other allocations are possible. Three cases are presented in table 5 that represent alternative assumptions regarding select, current retired workers aged 65–69 who would continue in or return to the labor force if the retirement test were abolished.

Table 5. Increase in OASDHI taxes and individual income taxes, increased OASI benefits, and percent of benefits recovered as a result of eliminating the retirement test, by alternative work behavior cases of retired workers aged 65 69, 1978

(Estimates in thousands)

Alternative work behavior cases of retired workers aged 65–69	OASDHI and individual income taxes			Increased OASI benefits	Percent of benefits recovered
	Total	Increase in—			
		OASDHI taxes	Individual income taxes		
Case 1: Only current workers who alter their work behavior	$330,000	$139,936	$191,334	$2,100,000	15.7
Case 2: Same as case 1 and 5 percent of current workers	910,224	408,675	584,549	2,100,000	47.3
Case 3: Same as case 1 and 10 percent of current workers[1]	1,550,367	673,613	977,774	2,100,000	78.9

[1] Individuals or principal wage earner with constructed annual earnings above $4,500

Technical Note No. 1

The labor-supply multipliers applied to earnings after elimination of the retirement test are given below by earnings class, according to the amount of earned income of the principal taxpayer.

Earnings of principal taxpayer—$1-3,600

1. Unmarried. Workers in this class could have increased their earnings to $4,500 without losing benefits but chose not to. Consequently, no change in the hours worked by this group is expected after elimination of the test. (See relevant part of text for choice of $3,600 as class boundary.)

2. Married, spouse earnings—0

a. Principal taxpayer, no change.

b. Spouse, no change.

3. Married, working spouse. In this case, the response of the spouse to the increased wage rate, as well as that of the principal taxpayer, must be considered. Labor-supply multipliers for the spouse are specific to the prerepeal earnings of the spouse.

a. Spouse earnings—$1-3,600. Since both members of the couple were not influenced by the retirement test, no changes in hours worked by either would be expected.

b. Spouse earnings—$3,601–4,500. Since the principal taxpayer's earnings were not influenced by the retirement test, no change in his work behavior is assumed. If the spouse is aged 65–69, an earnings multiplier of 1.35 is chosen to apply to the spouse's current earnings. This figure represents a downward adjustment of the 1.4 multiplier applied to working spouses' earnings above the test ceiling. (See text tabulation on page 23.) The adjustment is made to reflect the fact that the portion of increased earnings below the $4,500 ceiling would not have been subject to the 50-percent marginal tax before elimination of the test.

c. Spouse earnings—$4,501-10,464. No change is assumed in the principal taxpayer's tax effort, but the spouse realized a net wage effect of 1.4 times his or her original earnings.

d. Spouse earnings—above $10,464. Assume no change in the principal taxpayer's work effort, but the spouse realized an income effect from the increase in family income. This negative income effect is calculated by multiplying .05 times the average annual benefit for an individual.

Earnings of Principal taxpayer—$3,601–4,500

1. Unmarried. Multiply earnings by 1.14. This multiplier reflects a downward adjustment of Boskin's 1.16 multiplier, which is applied to all principal wage earners earning more than the retirement test ceiling in effect before its elimination. The adjustment is made because earnings less than $4,500 before elimination are not subject to marginal tax.

2. Married, spouse earnings—0. Multiply current earnings by 1.14 as in item 1 above.

3. Married, working spouse. Where both persons are working and at least one is earning beyond $3,600 and therefore sensitive to the retirement test, both the positive substitution effect and the negative income effect must be accounted for as well as their interaction in producing the joint family income. Again, the spouse response will vary depending on the level of earnings.

a. Spouse earnings—$1-3,600. Here one would expect the spouse to experience only an income effect in response to the principal taxpayer's new level of earnings since he or she probably was not choosing the level of work effort based on the retirement test. Therefore, to determine new family earnings, multiply the principal taxpayer's earnings by 1.14, add the earnings of the spouse, and subtract from that .05 times the change in the principal taxpayer's earnings.

b. Spouse earnings—$3,601-4,500. In this case the spouse is likely to be choosing a level of work effort in response to the retirement test. For that reason, the same multiplier (1.35) for spouses aged 65–69 as was used for this class of spouse of the principal taxpayer with earnings of $1-3,600 is chosen to increase spouse earnings. The principal taxpayer's earnings are multiplied by 1.14, and the combined earnings and social security benefits of worker and spouse aged 65–69 are then reduced by .05 times the change in principal taxpayer earnings to account for the income effect.

c. Spouse earnings—$4,501-10,464. The same multipliers are used as in the item immediately above, except that 1.4 instead of 1.35 is used because all previous spouse earnings were subject to the tax.

d. Spouse earnings—above $10,464. Principal taxpayer earnings are multiplied by 1.14. The spouse realizes a double income effect as a response to increased family income from previously withheld benefits as well as from the increase in earnings of the principal taxpayer generated by his increased work effort.

Earnings of principal taxpayer—$4,501-10,464 ($14,482)

1. Unmarried. Multiply current principal taxpayer earnings by 1.16 ($10,464 relevant maximum).

2. Married spouse earnings—0. Multiply current principal taxpayer earnings by 1.16 ($14,482 relevant maximum).

3. Married, working spouse ($10,464 relevant maximum).

a. Spouse earnings—$1-3,600. Same as under principal taxpayer with earnings of $3,601-4,500 at the similar level of spouse earnings, except principal taxpayer earnings multiplied by 1.16 instead of 1.14.

b. Spouse earnings—$3,601-4,500. Same as under principal taxpayer with earnings of $3,601-4,500 at the similar level of spouse earnings, except for modification of principal taxpayer earnings at this level.

c. Spouse earnings—$4,501-10,464. Same as under principal taxpayer with earnings of $3,601-4,500 at the similar level of spouse earnings, except for modification at this level.

d. Spouse earnings—above $10,464. Same as under principal taxpayer with earnings of $3,601-4,500 at the similar level of spouse earnings, except for modification at this level.

Principal taxpayer earnings greater than $10,464 ($14,482)

1. Unmarried ($10,464 relevant minimum). At this level of earnings one expects the income effect to dominate and work effort to be reduced slightly. To obtain new earnings the change in income due to receipt of previously withheld benefits (average annual benefits for 1978) was multiplied by .02 and subtracted from current earnings.

2. Married, spouse earnings—0 ($14,482 relevant minimum). Multiply the change in income due to the receipt of previously withheld family income by .02 and subtract from current earnings.

3. Married, working spouse ($10,464 relevant minimum).

a. Spouse earnings—$1-3,600. The principal taxpayer experiences the same income effect as in the item immediately above. The spouse responds by reducing his or her earnings by .05 times the net change in principal taxpayer income as stated in the preceding item.

b. Spouse earnings—$3,601-4,500. The principal taxpayer reduces his or her work effort as for married taxpayer with zero spouse earnings. The total effect on the spouse aged 65–69 is found by multiplying his or her earnings by 1.35 and then subtracting .05 times the net change in principal taxpayer income. For spouses under age 65, earnings are reduced by .05 times the change in principal taxpayer income.

c. Spouse earnings—$4,501-10,464. The same as preceding item, except for upward adjustment of 1.35 to 1.4.

d. Spouse earnings—above $10,464. The principal taxpayer experiences an income effect, and the spouse responds by reducing his or her earnings by .05 times the change in combined family incomes.

Technical Note No. 2 *

The estimates presented here are based on an extract of the 1978 MATCH sample of the Department of the Treasury. The extract covers the population of all tax units, both filing and nonfiling, in which at least one individual in the tax unit was in the age interval 65–69. The 1978 MATCH sample is constructed from essentially two data sources:

(1) The 1975 Statistics of Income (SOI), a stratified sample of more than 200,000 unaudited tax-return forms 1040 and 1040A filed by U. S. citizens and residents during calendar year 1976 for calendar year 1975; [1] and

* Prepared by Roy A. Wyscarver, Office of Tax Analysis, Office of the Secretary of the Treasury.

[1] For a more detailed description of this sample and the sampling procedures, see Internal Revenue Service, Statistics of Income—1975, Individual Income Tax Returns, Department of the Treasury, 1978, pages 180–181.

(2) The 1975 Survey of Income and Education (SIE), a sample survey containing data on demographics, housing, health, money and noncash income, and assets for 151,195 U. S. households. [8]

Neither of these data sources, however, is used in its original form.

Sample Design

The actual methodology used to produce the 1978 MATCH sample is still in the development stage, and the documentation that exists covers several hundred pages. The sample design is described briefly here.

Beginning with the 1975 SOI, the Office of Tax Analysis draws a 50,000 subsample of annual tax returns, stratifying in order to optimize the estimate of taxes paid. This sample is edited and corrected to generate a production 1975 SOI subsample. To the tax-return data on each record is appended exact age, race, and sex through an identifier match with social security earnings records.

The 1975 SIE sample is also subsampled to yield 50,829 households. Each household in the 50,829 subsample is disaggregated into tax units, thus producing a 1975 SIE subsample of 76,692 tax units. The 1975 SIE subsample of tax units is then further divided into a set of filers (60,094 tax units) and nonfilers (16,598 tax units).

Since the 1975 SOI subsample and the set of filers from the 1975 SIE subsample are both on a tax-unit basis, these files could be "matched" if an attribute existed on each file that would permit an "exact match." No such attribute exists. Common attributes on the two samples can be used to perform an attribute match, given some criterion for determining which "match" in the set of all feasible matches is the "best" match.

This determination is made by constructing a *distance function* that yields a weighted measure of the information dissimilarity between an SOI tax return and a filing SIE tax unit. In other words, the distance function assesses a penalty that varies directly with the degree of mismatching.

Given the distance function, [9] the task of matching the two samples can be formulated as a classical transportation problem where the 1975 SOI subsample represents the "source" and the set of filers in the 1975 SIE subsample represents the "sink," and the distance function is to be minimized.

The size of this problem- 50,000 nodes and up to 62 million admissible arcs—is extremely large and required the use of an extended transportation system algorithm [10] that matches tax returns with SIE tax units. The algorithm is designed so that a tax return in the 1975 SOI subsample may be "split" or matched with more than one tax unit in the set of filers in the 1975 SIE subsample. [11] Since it is required that the adjusted weights sum to the original weights, however, the statistical properties of both samples are maintained while achieving the lowest possible information dissimilarity, as measured by the distance function.

The actual output from the transportation algorithm is a set of linkages that identifies the tax filing SIE records in the 1975 SIE subsample of filers that will be "matched" with each tax return in the 1975 SOI subsample. These linkages are employed to append selected data from the appropriate tax filing SIE record in the 1978 SIE sample (as aged by the MATH Model [12]) to each tax record in the 1975 SOI subsample. Thus, each filing tax-unit record contains 1975 law-and-levels SOI data and extrapolated 1978 law-and-levels SIE data.

Once the 1978 SIE has been linked with the 1975 SOI, a process known as the "post merge" is performed. In the "post merge," each 1975 SIE tax unit that was a member of the set of nonfilers is retrieved from the 1978 SIE sample. Since none of these SIE tax units was matched with a SOI tax return, a synthetic 1978 SOI tax "return" is created from the available SIE data. Thus, each nonfiling tax unit contains a synthetic SOI tax return and selected SIE data. The nonfiling tax units are merged with filing tax units to produce a sample of 126,663 tax units.

At this point, the full MATCH sample still contains 1975 law-and-levels SOI data for all of the tax-filing population. In the final adjustment, the 1975 law-and-levels SOI data is extrapolated to 1978 law and levels by employing the Department of the Treasury's personal individual income-tax model extrapolation.

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[8] For a more detailed description of this sample, see Data Access Descriptions—Microdata from the Survey of Income and Education (No. 42), Bureau of the Census, January 1978.

[9] The distance function used 13 common attributes: Age, race, sex, family size, gross income, wages and salaries, self-employment nonfarm income, self-employment farm income, property income, wife's wages and salaries, State code, schedule code, and original weight.

[10] Developed for Office of Tax Analysis by Analysis, Research and Computation, Incorporated, Austin, Texas.

[11] "Splitting" a tax-return record means that a tax-return record may be linked as many times as necessary as long as the weights on the linked tax returns sum to the original weight. For example, a tax return with a weight of 1,000 may be split into three records with weights of 100, 200, and 700, or any other combination whose sum equals 1,000. The number of times a tax return is split and the apportioning of the original weight among the split returns depends on the SIE tax units that the tax return is matched with and the weight of those SIE tax units.

[12] The MATH (Micro Analysis of Transfer Households) Model developed by Mathematica Policy Research is a software package used to simulate the impact of tax and transfer programs by aggregating over household level data. Aging or extrapolating a data file entails reweighting the records and adjusting each record's income and deductions to make the sample representative of the personal income-tax-paying population in a year other than the year for which the observations actually relate.

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96TH CONGRESS
1ST SESSION

S. 1287

To repeal the earnings ceiling of the Social Security Act for all beneficiaries age sixty-five or older.

IN THE SENATE OF THE UNITED STATES

JUNE 6 (legislative day, MAY 21), 1979

Mr. GOLDWATER (for himself, Mr. STONE, Mr. PRESSLER, Mr. DECONCINI, and Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To repeal the earnings ceiling of the Social Security Act for all beneficiaries age sixty-five or older.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(8)(A) of the Social Security Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are" and inserting in lieu thereof "the new exempt amount which is".

(b)(1) Section 203(f)((8)(B) of such Act is amended by striking out "Except as otherwise provided in subparagraph

(D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the corresponding exempt amount" and inserting in lieu thereof "the exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(c) Section 203(f)(8) of such Act is further amended by striking out subparagraph (D) thereof.

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount".

(e)(1) Subsections (c)(1), (d)(1), (f)(1)(B), and (j) of section 203 of such Act are each amended by striking out "seventy" and inserting in lieu thereof "sixty-five".

(2) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "not shall any deduction be made under this subsection from any widow's or

widower's insurance benefit if the widow, widower, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.".

(3) Clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefit if she or he became so entitled prior to attaining age 60, or".

(4) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(5) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(6) The heading of subsection (j) of section 203 of such Act is amended by striking out "Seventy" and inserting in lieu thereof "Sixty-five".

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1982.

Statement of the Honorable Roger W. Jepsen
United States Senator from Iowa
Before the
Subcommittee on Social Security
Senate Committee on Finance
April 21, 1980

Mr. Chairman, thank you for the opportunity to testify in favor of abolishing the outside earnings limitation for social security recipients. This aspect of the law is extremely unfair and responsible for keeping many thousands of older Americans, who would like to do so, from being able to work. This not only hurts them but deprives our Nation of an extremely important resource--experienced workers--which we can ill-afford to waste.

A recent study by the National Committee on Careers for Older Americans estimates that at least 4 million persons over the age of 65 would like to work but do not. An important reason for this, I believe, is because our social security laws are written so that many people are discouraged from working. In particular, the earnings limitation says that for every $2 which a social security recipient earns above a certain amount--$4,500 in 1979--$1 of benefits are deducted, until age 72, after which there is no earnings limitation. The effect of this earnings limitation is the same as if a 50 percent marginal tax rate were imposed on the earnings of social security recipients above $4,500 per year.

It is a fact of life that when you impose a tax on something you get less of it. Thus the earnings limitation and the 50 percent

penalty imposed for exceeding it have the same effect. The magnitude of these de facto marginal tax rates on the earnings of social security recipients can be very high. According to calculations made by my staff, they may go as high as 76 percent. The result is that many older Americans who would like to work are discouraged from doing so.

I am including with my testimony a table showing gross monthly earnings for a social security recipient, net spendable income and de facto marginal tax rates. These figures assume an average monthly social security benefit of $298 for a single retiree and 1979 social security tax rates and federal income tax law.

Effects of the Earnings Limitation, Social Security and Federal Income Taxes on Spendable Income of Social Security Recipients

Monthly Gross Wages	Net Spendable Income	Increase in Spendable Income	De Facto Marginal Tax Rate
0	$298.00		
100	391.87	$93.87	6.13%
200	485.74	93.87	6.13%
300	579.61	93.87	6.13%
400	654.81	75.20	24.80%
500	683.68	28.87	71.13%
600	710.14	26.46	73.54%
700	736.01	25.87	74.13%
800	760.96	24.95	75.05%
900	785.33	24.37	75.63%
1,000	822.70	37.37	62.63%

page four

...Most people remain able to work at the age of 65 and beyond. A number of these would like to augment their retirement incomes. Output, income growth, and the general level of economic well-being are all reduced by the fact that this desire to work is substantially frustrated.

"We can ill-afford such a dissipation of a unique national resource. While our wealth may be great, gratuitous waste is intolerable. We think it is pernicious to effectively deny society access to the skills and abilities of its aged members. Moreover, it is transparently unjust to require the elderly to work under confiscatory taxes. Ironically, the provisions that reduce social security benefits of the 65 to 72 age group as their earnings rise is an onerous taxation of the very group the system's mission is to help. The retirement test is uneconomical and immoral."[1]

The principal argument against lifting the earnings limitation is, of course, that it will cost the government money. It is estimated that elimination of the earnings limitation will cost $2.1 billion on a static basis. While this may be true it ignores the economic benefits which will come from the skills of older Americans presently discouraged from working, and it ignores the revenue which will be generated by those people who will work who would not otherwise. The latest estimate from the Social Security Administration of what the revenue feedback would be ranges from 16% of increased expenditures in combined social security and federal income tax revenue, to 79% of expenditures

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[1] Arthur B. Laffer and R. David Ranson, A Proposal for Reforming the Social Security System (Boston: H.C. Wainwright & Co., May 19, 1977).

assuming that 10% more people age 65 to 69 stay in the work force. Based on the research of people like Professor Michael Boskin of Stanford, I would say that a 10% increase in labor force participation by workers over age 65 is probably conservative, given the elimination of the earnings test. According to Boskin, a decrease in the implicit tax rate on earnings from one-half to one-third would reduce the annual probability of retirement by about fifty perecent![2] Thus I believe it is highly probable that elimination of the earnings test would actually make money for the federal government, in spite of the increased expenditures

Increase in OASDHI Taxes and Individual Income Taxes From Elimination of the Retirement Test
(thousands-$)

	Increase in OASDHI Taxes	Increase in Income Taxes	Total	% of benefits recovered
Case 1. Only current workers alter work behavior	$138,736	$191,324	$330,060	15.7%
Case 2. Same as Case 1 and 5% of current workers	408,675	584,549	993,224	47.3
Case 3. Same as Case 1 and 10% of current workers	678,613	977,774	1,656,387	78.9

Source: Joseph G. Gordon and Robert N. Schoeplein, "Tax Impact From Elimination of the Retirement Test," Social Security Bulletin 42(September 1979), pp. 22-32.

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[2] Michael J. Boskin, "Social Security and Retirement Decisions," Economic Inquiry 15(February 1977), pp. 1-25.

Another reason why many people oppose lifting the earnings limitation is because they desire to turn the social security system away from being an annuity program into an income redistribution vehicle. If it is in fact an annuity program, based on the contributions of the retiree and his employer, then it is grossly unfair to deny anyone full benefits based on some arbitrary criteria of need. On the other hand, if social security is simply a vehicle for income redistribution then it makes sense to only distribute benefits on the basis of need, and an earnings limitation is appropriate.

It is true that over the years the annuity principle in social security has been weakened; that is to say, it is not strictly based on the actuarial principles that apply to a private pension. Nevertheless, in the minds of most Americans social security <u>is</u> an insurance system, not a welfare program. And this is the crux of the argument in favor of lifting the earnings limitation. Those who argue against lifting the limitation are implicitly endorsing the view that social security is a welfare program, not an annuity.

This contradiction between the view of social security as an annuity and as a vehicle for income redistribution was clearly evident even when the program was being established. Economist, later Senator, Paul H. Douglas, an important figure in the establishment of social security, wrote this about the earnings limitation in 1936:

"This requirement that the aged must leave regular jobs in order to obtain their annuities was undoubtedly dictated by two sets of considerations. The first was that those who had regular

jobs would not be in need of annuities, while the second was a desire to clear the labor market of the older employees in order to make a place for the unemployed young workers.

"This provision, however, is in part a confusion of the idea of relief with that of insurance. The workers will have made direct contributions for half of their annuities and indirectly will have paid for most of the employers' contributions as well. When the system is thoroughly established, they will therefore have earned their annuities. To require them to give up gainful employment is, in reality, attaching a condition upon insurance which they have themselves bought.

"This provision will also be difficult to enforce. For, strictly interpreted, it would prevent an aged person from keeping a small shop or operating a farm. All sorts of difficulties will arise in the attempt to ferret out such facts and to kepp those over the age of 65 from having some gainful job."[3]

Douglas is correct when he says that it is hard to administer the earnings test. This is just another argument in favor of repeal; for it means that considerable savings could be made in social security administration costs without cutting anyone's benefits.

This brings me to a strange confradiction in the application of the earnings test: It prohibits only the earning of income from actual labor, not income earned from capital or other so-called unearned sources. This is grossly unfair to those whose income comes from labor, or whose investments have been made in

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[3] Paul H. Douglas, Social Security in the United States (New York: McGraw-Hill, 1936), pp. 171-2.

what economists call human capital, such as education. This is clearly inconsistent with the view that social security ought only to be given to those who actually need it. Yet the following catagories of income are excluded from the definition of earned income, meaning you can make as much money as you want in these areas without losing social security benefits:

Pensions and retirement pay;

Payments in kind for domestic service, agricultural labor, or for work not done in the course of the employer's trade or business;

Rentals from real estate where the beneficiary did not "materially" participate in work connected with the income;

Interest or dividends on bonds or stock;

Capital gains;

Tips under $20 per month or not in cash;

Reimbursement of travel expenses; and

Royalties if the patent was obtained before the age of 65 and no substantial improvements were made after that age.

The reason why such a blatently discriminatory policy exists is obvious for two reasons: First is a lack of understanding about what income is. In my opinion there is no such thing as "unearned" income; all income is earned, because in order for capital to be created there must be foregone consumption. Thus, income derived from capital only differs from income derived from work in the sense that it is future rather than present income. Second, if they ever tried to include so-called unearned income in the definition of the earnings test it would probably lead to a revolt which would destroy the test.

There are also other, more practical problems with the earnings limitation. For one things, it applies across the board and cannot accomodate those with special circumstances or different costs of living. Consider this latter point: Since it obviously costs more to live in some parts of the country than in others, this means that the real value of one's income varies from region to region. If one were to apply a state price index to the earnings limitation in 1978--which was $4,000--one would find that in real terms, adjusted for the cost of living, this $4,000 was worth $5,263 in Florida and only $3,226 in New York--a difference of more than $2,000 in real terms.[4]

Furthermore, changes in the cost of living not only change from region to region but through time as well. The real value of the earnings limit goes down with the rate of inflation. Although Congress has periodically revised upward the limitation, there have still been long periods in which there was a real decline in its value. Based on 1967 dollars, the real value of the earnings limitation has only increased by 47% since 1955 even though its nominal value has more than tripled.[5]

In summary, let me just say that I favor abolition of the earnings limitation for these reasons: (1) It is immoral and unfair to deny social security benefits to those with more than a specified level of earned income, while excluding unearned

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[4] Based on Victor Fuchs, Robert Michael and Sharon Scott, A State Price Index (Cambridge, Mass.: National Bureau of Economic Research, Working Paper No. 320, February 1979).

[5] See Marshall Colberg, The Social Security Retirement Test: Right or Wrong? (Washington: American Enterprise Institute, 1978), pp. 6-7.

income from the limit. Those who have earned their social security benefits ought to be entitled to them regardless of what other income they have. (2) We are imposing an enormous economic cost on our country by denying ourselves the services of many older Americans. There is strong reason to believe that many of them would work if it did not mean a reduction in benefits and that this would more than make up for the increased cost with higher tax revenues.

The Effect of the Social Security Retirement Test on the Earnings of Retirement Aged Workers

Testimony of

Anthony J. Pellechio

University of Rochester
and
National Bureau of Economic Research

Mr. Chairman, the purpose of this testimony is to recommend reform of an important provision in the social security program. This provision, called the retirement test, reduces an individual's social security retirement benefit payment when his earnings exceed a certain amount. The earnings level allowed before the reduction in benefit payments is called the exempt amount. The retirement test was intended to direct benefit payments to individuals whose retirement was outside their control and had reduced their income. However, the retirement test implicitly measures an individual's retirement by his earnings which are subject to his control. As a result, the retirement test imposes a high implicit tax in terms of foregone benefit payments on earnings above the exempt amount. Consequently, the retirement test may induce individuals to keep their earnings below the exempt amount in order to receive their full benefit payment. Evidence that the retirement test does just that will be presented here. Recommendations for evaluating changes in the retirement test follow from this evidence.

Currently the retirement test reduces benefit payments by $.50 for every dollar of earnings above the exempt amount of $5,000. Benefit reduction continues until benefit payments are reduced to zero. A useful way to discuss how the individual is affected by the retirement test is in terms of how it affects his net wage. Up to the exempt amount an individual's net wage equals his full wage. Of course, income taxes other than the retirement test will determine what is meant by full wage here. For the purposes of this discussion, full wage can subsume whatever other adjustments should be kept in mind but will not be considered explicitly.

In other words, other income taxes do not affect the points being made here.

bove the exempt amount the individual's net wage equals half of his full wage. Another way to say this is that the retirement test has an implicit tax rate on earnings above the exempt amount of 50 percent. At the point where benefit payments are reduced to zero the individual's net wage returns to his full wage.

The economic approach to studying how the retirement test affects earnings would be to estimate a model describing how many hours people work. Such a model of labor supply involves expressing hours of work as a function of net wage and other characteristics of the population and market. In the presence of the retirement test, a person's net wage changes as described above. This poses significant problems for estimating labor supply. Such estimation is a formidable econometric task and has been the subject of recent econometric studies by me and others.

In my early work on the econometrics of labor supply estimation, I applied some of my techniques to the retirement test. My purpose here is not to describe my econometric methodolgy. Nor will there by much emphasis on my earlier empirical results. These results will be described only qualitatively in order to provide a foundation for the evidence presented here.

My econometric specification was designed to permit the empirical study of how individuals responded to the exempt amount and implicit tax rate separately. This distinction is extremely important from a policy point of view. The reason is that individuals' net wages can be increased either by raising the exempt amount or lowering the implicit tax rate. However, if individuals respond differently to changes in the exempt amount and changes in the implicit tax rate then effects of apparently equivalent ways to relax the retirement test will differ. My empirical results show that individuals are much more responsive to the exempt amount than to the implicit tax rate. The estimated labor supply model predicts that individuals will increase their earnings if the exempt amount is raised, but not if the tax rate is lowered.

There are two reasons why lowering the implicit tax rate of the retirement test does not necessarily raise labor supply. First, the tax rate may be high

enough so that none has earnings in the range where benefits are reduced. In other words, everyone is either earning below the exempt amount or earning enough so that benefit payments are reduced to zero. The tax rate at which you just get such a dichotamy in behavior is called the critical tax rate. My simulations may have only lowered the tax rate to a level that was still above the critical tax rate. Second, when the tax rate is lowered, earnings are taxed over a wider range, i.e. it takes a higher level of earnings to reduce benefits to zero. Thus, an individual's net wage does not necessarily go up because the range for receiving full wage is smaller.

It is worthwhile to go over the ambiguous effect of changing the implicit tax rate not so much for explaining my results as for pointin out things that should be considered when making reforms. In this spirit, it is important to mention that raising the exempt amount can have ambiguous effects in the theoretical analysis of the retirement test. In short, theory does not predict whether people will earn more or less when the exempt amount is raised or the implicit tax rate is lowered. My empirical results provide preliminary evidence that raising the exempt amount increases earnings while lowering the implicit tax rate does not. But this is not the evidence for today's discussion.

An implication of my earlier results was that there should be a high concentration or cluster of people earning just below the exempt amount. Consequently, an empirical study to follow up my econometric estimation of labor supply is simple. It involves looking at earnings distributions for retirement aged persons in years when the exempt amount assumed different values and seeing whether there is a high concentration of people earning just below the exempt amount. In other words, we look to see if people's earnings "follow" the exempt amount as it changes over time. Also, the earnings distributions of retirement

aged persons who are not subject to the retirement test should be checked to see that high concentrations at the exempt amount do not occur; otherwise, the results would be spurious.

The social security program provides the opportunity to carry out both of the above examinations. First, the exempt amount was changed over time in a highly irregular way. Consequently, evidence of high concentrations of people earning just below the exempt amount would support the conclusion that people keep their earnings below the exempt amount in order to receive their full benefit payments. Secondly, the retirement test applies to persons age 62-71 years old, but not to persons age 72 and over. The earnings distributions of 72 year olds and over should not show high concentrations just below the exempt amount. If this does happen then it would be difficult to draw any conclusions about the retirement test.

A rich file of data from the Social Security Administration is used to construct earnings distributions here; this file is the 1973 CPS-IRS-SSA Exact Match file. The file starts with the March 1973 Current Population Survey (CPS). Each individual's CPS record is matched to extracts of his 1972 income tax return (IRS) and social security records (SSA). The SSA data include annual earnings from 1966 through 1975. The sample used here consists of persons age 65 years old and over whose earnings were positive in any year from 1966-75. Individuals are eligible at age 62 for early retirement benefits. But early retirement benefits are less than full benefits for retirement at age 65. Also, benefits that are not collected before age 65 are counted toward an actuarial increase in the benefit payment at age 65. Thus, any reduction in benefit payments due to the retirement test between ages 62-64 may be cancelled by actuarial increases in future benefits. For this reason, the sample was choosen to be retirement aged workers who are eligible for full benefits, i.e. workers age 65 and over.

Table 1 presents the distribution of 65-71 year old workers by earnings in $100 brackets for each year from 1966 through 1975. The exempt amounts in these

years were $1,500 in 1966-67, $1,680 in 1968-72, $2,100 in 1973, $2,400 in 1974 and $2,540 in 1975. The percentage of workers whose earnings are in the $100 bracket just below the exempt amount is underlined for each year. These percentages in all years are high relative to the percentages in other brackets. What is particularly significant is how the concentration of workers drops going from the bracket just below the exempt amount to the bracket just above. The distributions in Table 1 suggest that workers reduce their earnings to avoid the retirement test.

The pattern of changes in the distributions is strong evidence that workers reduce their earnings to just below the exempt amount. In 1966-67 the percentage of workers earning just below the exempt amount of $1,500 increased from 5.5 percent in 1966 to 6.3 percent in 1967. In 1968 the exempt amount was raised to $1,680 and the cluster moves up to the bracket just below the new amount. From 1968-72 the exempt amount stayed at $1,680 and the earnings distribution became more concentrated at that amount. The percentages rise steadily from 6.5 to 9.5 percent in the $1,601-1,700 bracket while the percentages in the bracket immediately above stayed around 1.9 percent. Although the distribution became more concentrated at the exempt amount in 1968-72, as soon as it was raised in 1973 to $2,100 the cluster moved up with it. This happens again in 1974 and 1975. (In 1975 with an exempt amount of $2,540 the cluster gets spread over the $2,401-2500 and $2,501-2,600 brackets.)

The 1973 Exact Match file reports earnings only up to the maximum earnings taxable under social security. The percentages of workers in brackets above $3,000 up to the maximum taxable earnings (MTE) are less than 1 percent in all but a few brackets and average less than one-half percent. The percentages in the bracket denoted MTE are the percentages of workers who earn the maximum taxable earnings or more. The total sample population in each year is given at the bottom of the table. The sample population in any bracket can be calculated from the percentage and total. The overall picture from Table 1 is that workers either keep their

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nings low enough so as not to lose any benefit payments or earn the maximum axable earnings or above.

For the years in which the exempt amount changed Table 2 reports the per- ntage increases in the exempt amount and in total earnings of 65-71 year old rkers who earned the exempt amount or less. As the table shows, total earnings f these workers go up with the exempt amount. This is expected given the evidence Table 1 showing that workers tend to be concentrated in the bracket just below e exempt amount. The 1974-75 recession was probably responsible for the small ncrease in total earnings in 1975. In fact, given the severity of the recession, is probably noteworthy that total earnings of retired workers went up at all hen the exempt amount went up (note the decrease in the population of 65-71 year ld workers in 1975 in Table 1).

Benefit payments to workers who earn the exempt amount or less do not change hen the exempt amount is raised. As these workers increase their earnings to follow new exempt amount they still receive their full benefit as they did before. So he social security system pays no more in benefits to these workers due to the ncrease in the exempt amount, but collects more payroll tax revenue on their increased arnings.

Total earnings of 65-71 year old workers earning the exempt amount or less ere approximately $1 billion in 1969 in the sample used here. Given the increase n wages in the last decade total earnings of such a sample of workers today would e about $2 billion. If the exempt amount in 1981 were raised by 50 percent to pproximately $8,000 and total earnings in this sample went up by the same percentage, here would be a one billion dollar increase in these earnings. At a combined employer nd employee payroll tax rate of 13.3 percent in 1981 the social security system ould collect an additional $133 million from workers earning no more than the exempt mount. These workers would continue receiving benefits as they did before. In ther words this is a $133 million increase in revenue from workers whose benefit ayments will not be affected by the change.

As mentioned before the presentation of empirical results, the earnings distribution of 72 year olds provide additional evidence that the relationship between the retirement test and earnings of retirement aged workers is a causal relationship and not a spurious correlation. Because workers age 72 and over are not covered by the retirement test there should not be any clustering of the kind that was found above for 65-71 year old workers. Table 3 presents the earnings distributions for 72 year olds and over in the same way as was done for 65-71 year olds in Table 1. The $100 earnings bracket just below the exempt amount is underlined for each year. As can be seen, there is no clustering of workers in these brackets. This is significant on its own and also because there is considerable overlap between the samples in Tables 1 and 2. For example, a person age 67 in 1966 is in the sample for Table 1 in 1966-70 and in the sample for Table 3 in 1971-75. Consequently, the conclusions about behavior that are drawn from Tables 1 and 3 come in part from observing changes in behavior of the same people.

I believe the earnings distributions for retirement aged workers have been examined carefully to see whether the retirement test affects earnings. It is clear that the retirement test makes workers subject to it hold their earnings below the exempt amount in order to receive full benefit payments. The predictions of the amount by which payroll tax revenue would go up if the exempt amount is raised are approximations, but the fact that payroll tax revenue will be

raised as a result of behavioral responses to such a change is obvious from the results.

The effects of the social security retirement test on earnings of retirement aged workers is one important way in which social security can affect individual behavior. The suggested reform is consistent with a much broader program of reform. It is important to put the issue and reform discussed here in the context of the broad picture.

- The social security system has two objectives:
  1) the reallocation of an individual's lifetime income to later years in order to provide support for his own retirement
  2) the redistribution of income between individuals in order to provide support that is adequate according to standards set by society.

The present system represents an effort to meet both objectives through a single benefit formula and payroll tax structure.

Social security can affect behavior because the relationship between payroll taxes and benefit payments in tenuous. If an individual's benefit equalled the annunity that his payroll tax contributions (plus accumulated interest) would provide, then social security would not change the lifetime income of an individual. Social security would function like an annuity and provide retirement income in a way that achieves individual equity. In other words, the reallocation objective can be met without there

being any change in lifetime income; a person can always expect to receive in future benefits what he pays in payroll taxes (or pays in foregone benefits by retiring later). Also, social security would always be in actuarial balance by definition.

The other objective of social security--social adequacy--causes the program to depart from individual equity. As mentioned, this objective stipulates that adequate retirement income be provided according to some standard. As a result, individuals with low lifetime income receive benefit payments whose present value exceeds the accumulated value of the payroll taxes they paid into the system. This extra income comes from individuals with higher lifetime earnings for whom the present value of benefits falls short of the accumulated value of payroll taxes. Social security cannot achieve both an actuarially fair reallocation of lifetime income for all individuals in order to support their retirement, and a redistribution of income between individuals to make sure that support is adequate.

The social security system is under constant re-evaluation in the public forum by decree of law and because of the financial difficulties confronting the system of which the general public is increasingly aware. Because the income tax system is the proper place for income redistribution, the income redistribution done by social security, i.e. the cost of meeting the objective of social adequacy, should be financed from general revenues. A single program of income maintenance that combines all forms of

income support currently spread over a wide variety of programs including social security can provide socially adequate support based on lifetime earnings. An important implication of this is that poverty would not be misrepresented as a problem of the aged.

The main task of social security would be to reallocate individuals' lifetime incomes to provide retirement income in an actuarially fair way. In other words, social security would meet the reallocation objective and achieve individual equity. The program would become a public pension system that functions like an annuity. It would not alter the opportunities of any individual and, as a result, not distort individual behavior. In a sense, social security would be subject to rules implied by the spirit of the pension reform legislation of 1976.

It is important to emphasize that this recommendation in no way suggests an arbitrary draw on general revenues to maintain the currently operating system. Rather the recommendation requires a careful accounting of how the current system works and what the costs of meeting the reallocation and adequacy objectives are. Such accounting is worthwhile on its own as a way of telling policymakers and the public exactly what is going on. Such accounting is a prerequisite for the task of deciding how to structure the social security system that society faces.

The potential effects of social security on individual behavior is a relevant issue in social security policy. At present, through

a complicated benefit and tax structure, social security tries to meet conflicting objectives at once which confuses the issues and causes problems. There are many gains from meeting these objectives separately. The financial status of social security will be improved. Individuals will be able to make undistorted decisions about their lifetime consumption, earnings, and retirement. As the age distribution of the population shifts, the continued labor force participation of older workers will be an important input to aggregate supply. There should be no disincentives to their participation in economic activity.

Table 1

Earnings Distribution of Workers Age 65-71 in 1966-1975

Earnings Brackets	Percentage of Workers									
	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975
1- 100.	5.3	3.2	2.3	2.6	6.0	3.2	3.4	2.4	2.3	3.2
101- 200.	2.7	2.5	2.2	2.0	3.2	1.8	2.2	2.6	2.0	2.3
201- 300.	2.3	1.9	2.4	2.0	3.5	1.5	2.3	1.6	2.1	2.4
301- 400.	1.7	1.9	1.6	1.7	2.3	2.3	1.7	1.6	1.2	1.8
401- 500.	2.5	2.8	2.5	2.0	2.6	2.0	2.3	1.5	1.9	2.0
501- 600.	3.6	1.7	2.8	2.3	1.7	2.1	2.3	2.9	2.8	1.9
601- 700.	2.3	3.4	2.8	2.5	2.3	1.9	2.0	2.0	1.3	2.5
701- 800.	3.7	2.4	1.7	2.0	2.1	1.9	2.8	1.8	2.1	1.6
801- 900.	2.2	2.8	1.9	2.8	2.0	2.3	1.8	1.8	2.1	1.2
901-1000.	2.8	2.7	2.9	2.4	1.9	1.8	3.0	2.2	1.5	1.0
1001-1100.	3.2	2.5	2.7	1.7	1.6	2.3	2.0	1.5	1.7	1.6
1101-1200.	2.6	4.1	4.1	2.5	3.9	2.5	2.2	1.7	2.0	2.4
1201-1300.	2.7	3.4	2.3	2.3	2.6	2.6	1.7	2.0	1.7	1.8
1301-1400.	3.6	2.6	2.7	2.7	1.7	2.1	1.8	2.5	1.6	1.5
1401-1500.	5.5	6.3	2.9	2.3	2.8	3.6	2.6	2.5	2.0	2.6
1501-1600.	2.4	2.4	3.8	4.5	3.1	4.0	4.3	2.4	1.8	2.2
1601-1700.	0.7	1.7	6.4	6.6	7.9	8.9	9.5	2.7	2.0	2.1
1701-1800.	1.6	1.1	1.3	1.9	2.0	1.9	1.8	3.0	2.8	1.2
1801-1900.	0.7	0.7	0.7	1.6	1.1	1.9	1.7	2.8	2.2	1.5
1901-2000.	0.9	0.7	1.0	1.8	1.3	1.4	0.6	3.1	2.2	1.5
2001-2100.	0.6	0.6	0.7	1.4	1.1	0.6	0.8	6.3	3.3	2.4
2101-2200.	0.5	0.8	0.3	0.7	0.6	0.7	0.7	1.7	2.2	2.4
2201-2300.	0.2	0.3	0.6	0.8	0.8	0.4	0.5	1.3	2.5	1.9
2301-2400.	0.9	0.5	1.3	0.6	0.8	0.4	0.8	1.1	6.1	3.1
2401-2500.	0.5	0.5	0.5	0.7	0.7	0.8	0.4	0.6	1.5	4.3
2501-2600.	0.9	0.6	0.7	0.3	0.4	0.2	0.3	0.3	1.1	4.2
2601-2700.	1.5	1.2	0.4	0.6	0.6	0.9	1.0	1.2	0.9	0.9
2701-2800.	0.5	1.3	0.9	0.6	0.5	0.3	0.7	0.5	0.9	0.6
2801-2900.	0.7	1.0	0.4	0.3	0.7	0.3	0.5	0.4	0.7	0.7
2901-3000.	1.0	0.8	1.1	0.5	0.6	0.3	0.3	0.6	0.5	0.7

Table 1 (continued)

	Percentage of Workers									
	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975
:	(Percentages in brackets above $3,000 up to the MTE* in each year average less than 1/2 percent.)									
MTE*	14.0	14.7	12.5	14.5	12.6	18.1	14.9	15.2	18.1	18.3
Population (thousands)	1,796	1,943	2,156	2,273	2,640	2,273	2,260	2,388	2,288	2,115

*MTE denotes maximum earnings taxable under social security; these were $6,600 in 1966-67, $7,800 in 1968-71, $9,000 in 1972, $10,800 in 1973; $13,200 in 1974 and $14,100 in 1975.

Table 2

Year	Percentage Increase	
	Exempt Amount	Total Earnings of Workers Age 65-71 Earning the Exempt Amount or less
1968	12%	39%
1973	25%	30%
1974	14%	13%
1975	6%	1%

Table 3

Earnings Distributions of Workers Age 72 and Over in 1966-1975

Earnings Brackets	Percentage of Workers									
	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975
1- 100.	4.6	3.4	5.9	3.3	13.6	4.7	3.1	2.5	3.4	3.2
101- 200.	2.9	4.5	1.8	1.9	7.0	2.9	2.4	3.2	3.6	2.5
201- 300.	4.1	3.4	2.0	3.4	5.9	2.9	1.9	3.5	2.0	2.4
301- 400.	3.3	2.1	2.6	1.4	3.9	0.9	0.9	3.6	2.3	2.5
401- 500.	2.5	5.2	3.2	1.8	3.7	3.0	2.1	2.9	2.1	1.3
501- 600.	2.9	4.0	4.0	3.7	3.4	2.4	3.1	3.6	2.6	3.1
601- 700.	2.5	1.8	4.5	3.5	2.2	2.0	2.3	2.2	1.6	2.9
701- 800.	3.4	3.4	3.2	1.3	2.8	2.4	4.9	3.4	3.6	3.1
801- 900.	2.4	2.7	2.7	4.0	2.8	3.4	2.0	2.4	2.4	1.3
901- 1000.	3.7	1.8	3.6	2.0	2.2	2.7	1.4	2.3	2.6	3.0
1001- 1100.	2.7	2.2	3.6	4.4	2.4	2.6	2.5	2.1	1.9	2.7
1101- 1200.	3.6	3.8	1.0	2.2	3.1	3.3	4.0	3.5	2.4	3.2
1201- 1300.	4.6	2.0	2.9	3.3	1.9	2.5	3.3	1.0	3.4	1.9
1301- 1400.	3.5	1.9	1.9	2.0	2.9	4.1	1.9	2.2	2.5	2.4
1401- 1500.	2.6	4.7	4.2	1.2	1.9	3.5	2.5	2.7	2.8	2.3
1501- 1600.	2.5	3.0	2.3	3.4	1.3	1.6	4.2	1.6	1.0	2.7
1601- 1700.	1.8	1.9	1.8	3.5	2.7	3.9	2.7	1.1	1.7	2.1
1701- 1800.	1.5	3.0	3.6	2.1	2.1	1.8	3.4	3.5	1.8	1.5
1801- 1900.	1.4	2.1	1.6	2.6	2.1	2.2	1.9	2.3	2.0	1.8
1901-2000.	2.0	1.3	1.8	1.7	1.3	3.2	1.4	0.7	0.9	1.6
2001-2100.	1.7	2.6	1.8	2.5	1.6	1.9	2.3	3.2	3.1	2.3
2101-2200.	3.5	1.1	0.6	1.3	0.5	1.5	1.7	1.0	1.4	2.2
2201- 2300.	1.9	1.1	0.6	0.7	1.4	1.0	1.2	1.4	1.2	0.9
2301-2400.	1.4	2.4	0.6	0.5	0.1	1.0	0.4	0.8	2.0	2.6
2401-2500.	0.3	0.5	0.7	1.4	1.0	1.5	1.3	1.3	0.2	2.4
2501- 2600.	1.5	0.9	0.8	1.4	1.1	0.7	1.1	0.5	0.0	2.4
2601- 2700.	1.4	0.3	0.6	1.2	0.7	0.8	0.5	0.8	2.2	0.3
2701- 2800.	1.0	1.0	1.7	1.1	0.5	0.9	0.6	1.2	0.6	1.1
2801- 2900.	0.3	0.9	0.6	0.4	0.5	0.8	0.7	1.6	1.0	0.9
2901- 3000.	0.8	1.3	0.9	0.8	1.1	1.3	0.6	1.1	1.7	1.5

Table 3 (continued)

	Percentage of Workers									
	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975
:	(Percentages in brackets above $3,000 up the the MTE* in each year averaged less than 1/2 percent.)									
MTE*	9.5	9.4	8.2	9.3	6.7	10.2	9.0	10.2	11.4	10.2
Population (thousands)	605	656	729	762	1,338	829	908	953	932	869

*MTE denotes maximum earnings taxable under social security (see footnote to Table 1 for amounts in 1966-75).

Senator DOLE. I think the next witness is Mr. Driver, Commissioner of Social Security.

Mr. DRIVER. Good afternoon, Mr. Chairman. It is nice to see you, sir.

I have with me this afternoon Mr. Lawrence Thompson, Associate Commissioner for Policy from the Social Security Administration.

Senator NELSON. Mr. Driver, the committee is pleased to have you back again and your statement will be printed in full in the record. You may present it however you desire.

You may have some specific response you had on the question of costs, which is at least one of the questions that concerns me—there may be some others that have not occurred to me, or the authors of the legislation that are important.

I do not know. I am concerned about being sure that we do not add to the benefits without being sure that we have also provided a funding mechanism for the benefits that we have added.

STATEMENT OF WILLIAM DRIVER, COMMISSIONER, SOCIAL SECURITY ADMINISTRATION, ACCOMPANIED BY LAWRENCE THOMPSON, ASSOCIATE COMMISSIONER FOR POLICY

Mr. DRIVER. In your opening remarks, you covered the earnings test, and the general fact that there has been one in the social security law from the beginning, and you generally indicated how it worked. The panel that you have just heard has touched on several features of the test and has indicated clearly that there are some people who believe that the system should not have an earnings test, that it should be eliminated.

One of the major factors to be considered in evaluating this question is the old question of cost and the weighing of who should pay that cost. The cost of totally eliminating the earnings test for all beneficiaries, those under 65 and those 65 and above, would be $6 billion or $7 billion for the first year.

Senator NELSON. How much?

Mr. DRIVER. Between $6 billion and $7 billion for the first year.

Senator NELSON. I thought our figures were——

Mr. DRIVER. We have a cost of $2.6 billion for eliminating the test for those 65 and above, and then the difference would be to include all of those below 65.

Senator NELSON. You mean from 62 on?

Mr. DRIVER. Yes, sir, as well as under age 62.

Senator NELSON. I have not read either of these bills in detail. They only propose above 65, is that right?

Mr. DRIVER. Yes, sir.

Senator NELSON. I get you.

Mr. DRIVER. I was addressing myself to the overall cost.

Senator NELSON. You say the figure above 65?

Mr. DRIVER. $2.6 billion.

Senator NELSON. Can you, or are you prepared, or do you wish to submit something later? I think it is important that the specific points made by the economists relied upon by Senators Goldwater and DeConcini and the rest saying that there are offsetting benefits—do you have a response to that, or can you get economists to agree on that, or do they disagree?

Mr. DRIVER. Of course, there are offsetting benefits and you eard about them today. People have been asking questions about his and we have been answering hypothetical questions—if such nd such were the case how much would eliminating the test cost, and that sort of thing.

What we have to assume in the first place, for example, to decide how much it would cost, is how many people could return to work if they were willing to return to work.

The 79-percent estimate that you heard this afternoon would be a return of FICA taxes and income taxes and was based on the assumption—I stress the fact that this is just an assumption—that 10 percent of the people aged 65 through 69 now fully retired would want to and could return to full-time work.

Senator NELSON. As to that figure, do you mean that there are 10 percent who are not now working at all or does that include those who are working now?

Mr. DRIVER. This assumes everybody working now will continue and 10 percent of people age 65 through 69 who are fully retired would and could return to work.

Senator NELSON. I am still confused about that.

Mr. DRIVER. They are not working now.

Senator NELSON. They are not doing anything now?

Mr. DRIVER. They are drawing social security.

Senator NELSON. This assumes that if there was no earnings test, that 10 percent of all retirees——

Mr. DRIVER. Of all those aged 65 through 69 who are not now working would return to work.

Senator NELSON. This includes people with a work history or not, women, men? It includes everybody?

Mr. DRIVER. Yes, sir, everyone who ever worked.

This estimates that 10 percent of the people in our population today who are 65 through 69 and who are fully retired and not working——

Senator NELSON. Not even working part-time.

Mr. DRIVER. No, sir—would want to, and could, return to work. And of course, I would have to say, in view of today's economic conditions, certainly this assumption would be highly questionable.

Senator DOLE. How many people are we talking about?

Mr. DRIVER. The U.S. population between 65 and 69 who are fully retired is between 2.5 million and 3 million.

Senator NELSON. 2.5 million?

Mr. DRIVER. Right.

Senator DOLE. Would return to work?

Mr. DRIVER. The estimate assumed that as many as 10 percent—roughly 300,000 would want to and could. This assumes they would not displace somebody presently employed. This would be a total addon.

Senator NELSON. This is in addition to those people who are now working under the earnings test, right?

Mr. DRIVER. That is correct.

Senator NELSON. How many people and what percentage of the retirees is that?

Mr. DRIVER. Who are now working under the retirement test? We estimate 1.1 million people. 1.1 million people had annual

earnings for 1979 above the limit, with some or all of their benefits reduced as a result of that.

Senator NELSON. Those are people working and earning more than permitted under law?

Mr. DRIVER. Earning something and then having their benefits reduced by some.

Senator NELSON. They are earning over the maximum permitted, then?

Mr. DRIVER. Yes. 700,000 are having some portion of their benefits withheld. 400,000 are having all of their benefits withheld.

Senator NELSON. 400,000 people are not getting any of the retirement?

Mr. DRIVER. And would be eligible except for the money.

Senator NELSON. That is not in the original 10 percent?

Mr. DRIVER. No, sir. The 1.1 million people are presently working. They have chosen to work.

Senator NELSON. You think those assumptions are liberal or conservative or what?

Mr. DRIVER. I think they are totally unrealistic in today's economy.

But, as I say, we have made cost estimates——

Senator NELSON. Based on those assumptions?

Mr. DRIVER. Yes, sir.

Could I ask Mr. Thompson to join in this conversation?

Senator NELSON. Sure.

Did you identify yourself?

Mr. THOMPSON. Yes, I did. He introduced me at the outset, Mr. Chairman.

The numbers that are being bandied about were produced by the Social Security Administration at the request of the 1979 advisory council who said, "Make some assumptions about how people would respond if the earnings test were eliminated at age 65 and calculate what the effect would be."

And the researchers of social security said there is some basis where we can say how people who are working will respond in terms of working more. You heard a discussion here earlier about the number of people whose earnings tend to be right around the exempt amount, or just below it, so the assumption is that they would work more and earn more. With some degree of reliability, estimates can be made about that group. And those estimates were made. They calculated how many people there were, roughly what the effect would be, how much additional earnings there would be and how much additional taxes there would be. The results were that roughly 7 percent of the cost of eliminating the retirement test for people age 65 through 69 would be recovered in increased social security taxes from this group that is now working and that we think would work more.

Additionally——

Senator NELSON. Wait a minute. Seven percent of the additional cost of eliminating the limitation would be paid for by the people who work?

Mr. THOMPSON. The additional work would produce additional social security taxes.

Senator NELSON. How could it produce 7 percent?

Mr. THOMPSON. The additional taxes would represent 7 percent of the cost of eliminating the retirement test from these people who are now working.

Senator NELSON. 7 percent of their own costs? Is that what you are saying?

Mr. THOMPSON. Yes.

In addition, they pay higher income taxes and the increased revenue there would equal about 9 percent of the cost of eliminating the retirement test. Of course, that 9 percent goes to the general fund, not to the social security trust funds. If you combine the two numbers, then the conclusion is that the best guess is, looking only at those people who are now working and would work more as a result of eliminating the retirement test, that the total increase in taxes would amount to about 16 percent of the cost of eliminating the retirement test.

The big question then becomes, are there people not now working at all who would go back to work or who, let's say, would have continued to work were there no retirement test? And if these people did go back to work and did not displace another worker so that there were more people employed, what would that do to this calculation of the effect on revenues, both social security and income tax revenues, of eliminating the retirement test?

It turns out that there is no way that anyone can make a reasonable guess as to what fraction of people now fully retired would go back to work. So as an economist, I am here to tell you, do not even expect the economists to answer that question, at least in the next year or two.

There is some scattered evidence that suggests that perhaps 5 percent is a reasonable number. What was done by the social security researchers was to say:

> Let's assume nobody who is now fully retired goes back to work. Then let's assume that 5 percent who are fully retired go back to work and finally let's assume that 10 percent who are fully retired go back to work. We will give you three choices, and the reader of our report can decide for himself what he thinks is most reasonable.

It is at this 10 percent number, that the repeal of the retirement test would have the most dramatic impact in this study. That is the number at which the calculations suggest that perhaps 79 percent of the cost of eliminating the retirement test, would be recouped through higher social security and Federal income tax revenues; about 32 percent of the cost of eliminating the retirement test would be recouped through higher social security taxes. The balance, roughly 47 percent of the cost of eliminating the retirement test, would be recouped through higher income tax revenues.

Senator NELSON. In the calculations of what it would cost to remove the retirement test for everyone over 65 or older, was a static analysis used as suggested by one of the witnesses or did the analysis include an input as to how much more would come back in taxes?

Mr. THOMPSON. That estimate, supplied by the Office of the Actuary, is an estimate of additional benefit payments and does not include any adjustment for possible additional tax revenues.

Senator NELSON. At least that is not to the degree of that figure, $2.6 billion.

Mr. DRIVER. Of the additional costs to the program.

Senator NELSON. That does not factor in any additional funds that the reemployment might bring back.

Mr. DRIVER. No, sir. We made no estimate as to that and we feel it is unrealistic, certainly in today's economy, to put much stress in that area.

Senator NELSON. Because of high unemployment?

Mr. DRIVER. Because of high unemployment and these retired people would have to replace existing workers. To float that down and come back with a realistic figure really is not very productive.

Senator NELSON. So the record will be complete, do you have for the record in your speech—if not, could you supply it—the number of people who are working and covered by the earnings test?

Mr. DRIVER. We will make sure.

Senator NELSON. How many are above, earning more than permitted, therefore having to have an offset, so that our record at least could have these statistics?

Mr. DRIVER. Yes, sir. I have a table here which I will insert in the record. It is not in my statement, but I will give it to you.

Senator NELSON. All right. If you would submit that then it would be printed at this point in the record.

[The material referred to follows:]

Old-Age, Survivors, and Disability Insurance—Persons aged 65 and over and eligible for OASDI benefits on Jan. 1, 1980, and number affected by the retirement test in 1979

	Estimated (millions)
U.S. population aged 65 and over, Jan. 1, 1980[1]	25.5
Persons aged 65 and over, eligible for OASDI benefits on Jan. 1, 1980[2]	24.4
Not subject to the retirement test in 1979[3]	11.3
Subject to the retirement test in 1979[3]	13.1
With no earnings for 1979	9.3
With annual earnings for 1979[4] of $4,500 or less	2.5
With annual earnings for 1979[4] above $4,500, but with no benefits for 1979 withheld because of the retirement test[5]	.2
With annual earnings for 1979[4] above $4,500 and with some or all benefits for 1979[6] withheld because of the retirement test (900,000 workers; 200,000 dependents)	1.1
Some, but not all, benefits withheld because of the retirement test (600,000 workers; 100,000 dependents)	.7
All benefits withheld because of the retirement test (300,000 workers; 100,000 dependents)	.4

[1] Includes Puerto Rico, Virgin Islands, American Samoa, and Guam.

[2] Includes spouses aged 65 and over of workers aged 62-64.

[3] Generally persons attaining age 72 in January 1979 or earlier are not subject to the retirement test in 1979; persons under age 72 at the end of January 1979 are subject to the retirement test during some or all months in 1979. An exception to this is a spouse age 72 or over of a worker under age 72 at the end of January 1979—such spouses are subject to the retirement test in 1979.

[4] Excluding earnings in or after the month of attainment of age 72, for workers attaining such age in 1979.

[5] These are people attaining age 65 in 1979 who have no benefits withheld for months in or after the month of attainment of age 65, because they have no earnings, or have wages not exceeding $375 a month, or do not perform substantial services in self-employment in such months.

[6] As used here, "benefits for 1979" means those benefits for all months in 1979 excluding months prior to the month of attainment of age 65.

Source: Office of the Actuary, Nov. 26. 1979.

Senator NELSON. Go ahead.

Mr. DRIVER. I got ahead of myself in terms of my statement, but I could briefly go back and pick up at the point where I indicated at you described the earnings test, and I then indicated the costs eliminating it for those below 65 and those above.

Senator NELSON. Do any of these proposals you are putting forth, ppose to eliminate it for anyone below 65, in any of these bills?

Mr. DRIVER. No, sir.

Those who would benefit from eliminating the test are people ith substantial earnings in addition to their social security bene-ts and not those who are dependent primarily on social security nd other unearned income.

The additional costs from the elimination of the test would have be imposed on all contributors to the program. It is likely to be ficult, if not impossible, in our opinion for many young and ddle-aged workers to understand why they must pay increased xes to pay social security benefits to the relatively few older rkers who are still working and earning substantial amounts.

As a part of the Social Security Amendments of 1977, Congress ught to simplify the earnings test and make it a better measure of st earnings by replacing the monthly earnings test with a strictly nual test, except for 1 grace year.

Senator NELSON. You are addressing the issue?

Mr. DRIVER. Of the bill, H.R. 5295.

Senator NELSON. All right.

We are not dealing with the earnings test?

Mr. DRIVER. Only in part.

Senator NELSON. The narrow one that maybe involves somebody who had earned some income before they retired?

Mr. DRIVER. Yes, sir, and they triggered the grace period.

While eliminating the monthly earnings test was proposed by the dministration and enacted by the Congress to make the earnings est simpler and a better measure of lost earnings, some problems ave become apparent. In an effort to deal with these problems, the House of Representatives passed H.R. 5295 last December. That s where I am now, and I would like to talk about those particular problems.

In implementing the 1977 amendments, the Administration in-erpreted congressional intent to be that a beneficiary who had sed the monthly earnings test before 1978 could not use the nonthly test again in 1978 or later. The legislative history of the 1977 amendments, including the cost estimates and other informa-tion provided by the Administration and adopted in the committee reports, implies this intent.

The 1977 amendments were signed into law on December 20, 1977, only a few days before the new earnings test provision became effective on January 1, 1978. This did not allow sufficient ime for the Administration to review the new law, resolve all questions regarding its implementation, and prepare and issue re-vised operating instructions.

Since SSA field offices did not receive the new implementation procedures until May 1978, some people who were paid benefits in early 1978 based on prior law were overpaid. We estimate that about 50,000 beneficiaries may have been overpaid in 1978 because they used their grace year before 1978. These beneficiaries under-

standably felt that 1978 should have been considered their grace year.

The Administration has already taken administrative steps to minimize hardships caused by the delay in implementing the 1977 amendments.

We recovered only that part of 1978 overpayments caused by the delay which could be collected from benefits for June through December of 1978.

We have, upon request, prorated or deferred to a later period the recovery of overpayments caused by the delay.

We have permitted people to withdraw their original benefit applications, refund all benefits paid up to that point, and refile as of 1978 or later if it was more advantageous for them to establish a new grace year.

H.R. 5295 would give all beneficiaries a grace year after 1977 in order to help people who lost benefits because they had a grace year before 1978. The Administration strongly opposes this provision.

Making such a change so long after the fact cannot undo the confusion that occurred in the past. We believe that the administrative steps already taken have softened the adverse effects of the 1977 amendments on people who used their grace year before 1978. In addition, this provision of H.R. 5295 would result in a cost to the social security program of $58 million in fiscal year 1981.

Senator NELSON. This whole provision?

Mr. DRIVER. This one provision to give everybody another grace year.

Senator NELSON. All right.

How about those who are not given an extra grace year but retire next year?

That is not the extra grace year question, is it?

Mr. DRIVER. Who have not used the grace year?

Senator NELSON. Yes.

Mr. DRIVER. That is not involved in this.

In other words, they were not disadvantaged. The only people who would get the additional grace year would be those who are disadvantaged because they had used their grace year prior to the passage of the 1977 amendments and before the amendments were put into effect.

Senator NELSON. All right.

Mr. DRIVER. I am just speaking of those who were adversely affected.

Senator NELSON. The total cost of that is estimated to be $58 million.

Mr. DRIVER. Yes, sir.

Senator NELSON. I thought that the actuaries had a very much higher figure originally, a couple of hundred million?

Mr. DRIVER. Yes, they certainly did.

Senator NELSON. What changed it?

Mr. DRIVER. This figure, this estimate that I am giving you today, is based on the actual experience in implementing the law and a better assessment of the numbers that are involved and who were adversely affected, who would take advantage of an additional grace period.

...ne original estimate was in advance of the fact, based on expec-...tions that did not mature.

Senator NELSON. I see. That cut it from $300 million, was it?

...r. DRIVER. It cut it down to about 25 percent of the original ...timate of about $300 million, yes, sir.

Senator DOLE. Are the people who are disadvantaged by the ...ovisions teachers?

Mr. DRIVER. Those in particular were in this category because of ...nature of their work year in a 12-month period; many teachers ...used their grace period prior to this particular change in the ... in 1977. Then when it came along to their real retirement date, ...ey found that for some period of that year they would not be ...titled to benefits.

Senator DOLE. Those who might have been sick or unemployed?

...r. DRIVER. For whatever reason. They found it was convenient ...use a month or two of social security benefits in a prior year and ... could not do it again when they really came up to a perma-...t retirement date.

...nose are the ones who were adversely affected.

Senator DOLE. You oppose that?

Mr. DRIVER. We oppose it based on the high cost, $58 million to ...social security funds, today, and the fact that so much time has ...d that we think that introducing this now, even though it ...ould advantage a number of people, would be additionally confus-...g as well as additionally costly.

Senator NELSON. All right.

Senator DOLE. Would it be confusing if somebody benefited?

Mr. DRIVER. Not necessarily the fact that they benefit, but in describing the fact, bringing the message to that select group that was adversely affected and whose accounts have been adjusted. ...e waived some of the overpayment money that could not be ...ected. There have been a whole string of things that have taken ...e in individual cases that now would have to be either unrav-...lled or redone in some other fashion and we think that that whole administrative effort would be terribly confusing.

Although I admit clearly that it would benefit a number of these ...ople, in terms of moneys received from the fund.

And that is the reason for the $58 million cost estimate. Yes, sir.

In addition to this area, there are two technical problems that ...ve arisen from eliminating the monthly earnings test. The policy ... having only an annual earnings test except for one grace year ... unduly harsh results for some nonretiree beneficiaries, such as ...ildren, students, mothers, and fathers.

...ne grace year allows people who are retiring to come on the ...nefit rolls in the middle of a year with earnings above the ... exempt amount and still receive benefits for months in ...ch they do not work.

...lowever, there is no comparable provision for people who are ...ected to leave the benefit rolls and go to work. For such people, ...nefits paid earlier in the year can become overpayments and ... to be repaid from current earnings.

... would make more sense to allow people who go off the rolls ...ing the year to keep benefits paid up to that point, regardless of

how high their earnings are after their benefits end. Such an approach would also avoid discouraging people from working.

Take for example a college student who received benefits of $175 a month for January through May of 1979 for a total of $875. The student graduated in May of 1979 and got a job from June to December with earnings of $5,500.

The $5,500 earned in 1979 is $2,020 more than the $3,480 exempt amount for people under age 65. If the student already used the grace year before 1979, all $875 of benefits for 1979 would have to be paid back, even though the student was not on the rolls while working.

Senator DOLE. That does not cost very much, does it?

Mr. DRIVER. That has a low cost estimate.

Mr. THOMPSON. Senator, the estimate takes into account that the provision would be retroactive to 1977. Therefore, in the first year there is some settling up, mostly in the nature of forgiving overpayments that we have not recouped yet.

The ongoing figure is in the neighborhood of $35 million a year. The first year number is $70 million.

Mr. DRIVER. The second problem arising from the elimination of the monthly earnings test stems from the requirement that people must be entitled to social security benefits in order to be covered by medicare hospital insurance benefits. Thus, people who need hospital insurance protection must file for social security benefits even if they do not want to retire.

The problem is that after they file for social security benefits, an isolated month of low or no earnings triggers the grace year for these people and the monthly earnings test is not available to them in the year they actually retire. Often when this happens, few, if any, benefits can be received in the year the person actually retires.

At present, people can regain the use of the grace year by withdrawing their benefit applications and repaying both the social security benefits and any medicare benefits received up to that point. However, in some cases this is not practical since medicare payments can amount to thousands of dollars.

H.R. 5295 would solve these problems by restoring the monthly earnings test in the year entitlement ends for people receiving child's—including students—mother's or father's benefits—retroactive to 1978—and providing for separate applications for social security and medicare benefits. It would also permit people who have already used their grace year, but who want the grace year in a later year, to withdraw their application for social security benefits without affecting medicare benefits.

The Administation favors the enactment of these proposals in H.R. 5295. We should note that they are similar in intent to legislation submitted to the Congress on February 20 of this year as part of our proposed "Social Security Amendments of 1980." However, in view of current budgetary constraints, we recommend that the effective date of the provisions be delayed until October 1981.

Senator DOLE. That lowers the cost?

Mr. THOMPSON. The provision for separate applications saves money the first year and then runs into money in subsequent years.

Mr. DRIVER. One final problem arising from the elimination of the monthly earnings test involves retired self-employed people whose social security benefits are reduced because they receive payments for work they did before retirement.

Before the 1977 amendments, retired self-employed people could receive full benefits for months in which they did little or no work, even if they received substantial payments from work done in prior years. This was because the monthly earnings test included a substantial services test which permitted full benefits to be paid for any month in which a self-employed person did not work more than a certain number of hours.

Under the current annual test there is no substantial services option. Some retired people therefore get fewer social security benefits than they did previously because they are getting deferred payments based on work they did before retirement.

This problem is compounded because the law treats employees and the self-employed differently with respect to when deferred income is counted for the earnings test. Employee wages are counted when earned, regardless of when received. However, self-employment income is counted when received, even if the work was done in a prior year.

Therefore, a retired self-employed life insurance agent, for example, may receive no social security benefits because of renewal commissions from policies sold before retirement. In the same situation, a retired agent who was an employee gets full benefits.

The people affected by this problem are mainly retired self-employed life insurance agents and retired farmers. Some other self-employed businessmen, including retired partners, are also affected.

H.R. 5295 would address this issue by allowing beneficiaries to discount under the earnings test any self-employment income they get after coming on the benefit rolls based on work they did before they came on the rolls. The Administration is strongly opposed to this provision of H.R. 5295.

We recognize that the elimination of the monthly earnings test has adversely affected some retired self-employed people who are receiving income based on work they did before retirement. Also, we think the treatment of self-employed people should be as consistent as possible with the treatment of employees under the earnings test.

However, we believe that the cost and potential benefits of this provision must be considered in relation to the costs and benefits of more significant changes in the program. The provision would help the relatively few beneficiaries who have substantial earnings from work done before retirement but would add $36 million to social security program costs in fiscal year 1981.

In summary, the Administration recognizes that some problems have resulted from the elimination of the monthly earnings test and favors certain measures to solve those problems. Specifically, we favor those provisions of H.R. 5295 which would restore the monthly earnings test in the year entitlement ends for certain beneficiaries and which would provide for separate applications for social security and medicare benefits—provided that the effective dates of the provisions are delayed until October 1981.

These provisions preserve the equity and rationality of the earnings test. We are, however, strongly opposed to those provisions which would allow the self-employed to exclude certain deferred income from the earnings test and which would give all beneficiaries a grace year after 1977.

These proposals are especially undesirable in view of current budgetary constraints and the significant additional costs that would be imposed on the social security trust funds.

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

Senator DOLE. Is that the only reason, the costs? They have merit, but the costs?

Mr. DRIVER. Yes, that is right, sir.

Senator DOLE. Without the cost, you would support them?

Mr. DRIVER. I regret to say that, but that is true.

Senator NELSON. The total cost in the bill by your estimate is what? Identify it for each provision.

Mr. DRIVER. For 1981, the total cost is $90 million. $58 million is the cost for the additional grace year and $36 million is for excluding all self-employed deferred income. As to the cost of the other two provisions, if you place the effective date as we have recommended, there would be no cost in the first year.

Senator DOLE. You do not support all of those?

Mr. DRIVER. We support the last two, the latter two I referred to, the one that would separate Medicare from the social security application. We support that, and we support the one that would not count the moneys received which cause an overpayment for students, who for example, draw benefits through the middle of the year and then go to work in the latter part of the year. In those cases, the earnings in the latter part of the year retroactively cause an overpayment.

Senator DOLE. Those things do not cost anything.

Mr. DRIVER. We recommend that there be no cost the first year, that they not be effective until October 1981.

Senator DOLE. In other words, you recommend we adopt those that do not cost anything?

Mr. DRIVER. Yes, sir. Those that do not cost anything this coming year.

Senator NELSON. Thank you very much, Mr. Commissioner. We appreciate your taking the time to come today.

[The prepared statement of Commissioner Driver follows:]

STATEMENT BY WILLIAM J. DRIVER, COMMISSIONER OF SOCIAL SECURITY

Mr. Chairman and members of the subcommittee, it is a great pleasure to be invited to testify before this Subcommittee. I would like to thank you for this opportunity to discuss one of the most misunderstood features of the social security program—the social security earnings test.

PHILOSOPHY AND HISTORY

Social security is a social insurance system under which workers and their dependents are insured against the risk of earnings loss as a result of death, disability, or retirement. The benefits paid partially replace the lost earnings and help prevent widespread economic dependence and insecurity.

The earnings test is one way of measuring whether the insured risk, a loss of earnings, has occurred. If a beneficiary's earnings do not exceed a certain amount (called the annual exempt amount), social security benefits are paid to replace lost earnings.

earnings test has always been a major feature of the social security program. er the original Social Security Act of 1935, the test was a monthly one. No its were paid for any month a beneficiary had any earnings that were covered the program. However, before the first benefits were paid in 1940, the test changed to provide that benefits would only be withheld for months in which ngs were $15 or more.

e earnings test has been liberalized several times since the 1940's to allow ple to supplement their social security benefits with some additional earnings. or changes were made in 1950, 1954, 1960, 1972, and 1977. The cumulative effect ese changes has been greater complexity and public misunderstanding.

n annual earnings test was added by the Social Security Amendments of 1950, at that time, it applied only to the self-employed, who had just been newly ered. Under this annual test, $1 in benefits was withheld for each dollar of ings above a $600 annual exempt amount. However, under a monthly earnings benefits were paid for any month a beneficiary did not render substantial vices in self-employment, regardless of annual earnings. The 1950 amendments exempted people age 75 and over from the earnings test.

he Social Security Amendments of 1954 extended the annual earnings test to ude employees as well as the self-employed. In addition, earnings from non- red work (as well as covered work) were counted under the test and the age at ch the test no longer applied was lowered from 75 to 72.

he Social Security Amendments of 1960 instituted a two-tier benefit withholding em: $1 in benefits was withheld for each $2 of earnings above the exempt int, up to a certain level; $1 in benefits was withheld for each dollar of ngs above that level. (The 1972 amendments eliminated this dollar-for-dollar uction.)

The Social Security Amendments of 1977 increased the exempt amount for benfi- ries age 65 and over, and lowered the age at which the test no longer applies om 72 to 70 beginning in 1982. The 1977 amendments also tried to simplify the rnings test and make it more equitable by replacing the monthly earnings test, cept for one "grace year," with a strictly annual earnings tests.

HOW THE PRESENT TEST WORKS

The present earnings test has four basic elements:

1. *An annual test.*—A person whose annual earnings do not exceed the exempt nount for the year is considered to be retired and gets full social security benefits r the year.

There are two different exempt amounts depending upon a person's age. For ople age 65 and over the annual exempt amount is $5,000 in 1980, $5,500 in 1981, nd $6,000 in 1982. After 1982, this amount will be automatically adjusted annually reflect increases in average wages.

For people under age 65, the annual exempt amount is $3,720 in 1980 and is itomatically adjusted annually to reflect increases in average wages. It is estimat- d that the exempt amount for those under age 65 will be $4,440 in 1982, as ompared to $6,000 for those age 65 and over.

2. *A $1 for $2 withholding rate.*—One dollar in benefits is withheld for each $2 of arnings above the annual exempt amount.

3. *A monthly test in a "grace year".*—A special provision in the law allows people ho retire in the middle of the year to receive full benefits for the remainder of hat year regardless of how high their earnings were before retirement. This year in hich a monthly earnings test is still used is generally called the "grace year."

4. *An exemption on account of age.*—The earnings test does not apply beginning ith the month a person reaches age 72 (age 70 beginning in 1982).

ELIMINATING THE EARNINGS TEST

Some people believe that social security should be viewed as a system for paying n annuity at a certain age rather than as a social insurance system. These people ropose that the earnings test be eliminated.

One of the major factors to be considered in evaluating any proposed change in ne social security program is the cost of that change relative to its potential enefits and relative to the cost of other possible changes in the program. The cost f totally eliminating the earnings test for all beneficiaries, including those under 65, would be $6 to $7 billion in the first year alone; the long-range cost would be .25 percent of taxable payroll. If the test were eliminated only for those age 65 and over, the cost would be $2.6 billion in the first year with a long-range cost of 0.21 percent of taxable payroll. Only a fraction of these costs could be recovered through

increased social security and Federal income tax receipts from older people who continued or returned to work.

Those who would benefit from elimination of the earnings test are people with substantial earnings in addition to their social security benefits, not those who are dependent primarily on social security and other unearned income. In 1975 for example, among people age 65–71 affected by the earnings test, almost 40 percent had earnings of $10,000 or more (about $15,000 in 1980 dollars). The additional costs from the elimination of the earnings test would, however, have to be imposed on all contributors to the program. It is likely to be difficult, if not impossible, for many young and middle-age workers to understand why they must pay increased taxes to pay social security benefits to the relatively few older workers who are still working and earning substantial amounts. Imposing this additional cost at a time when even the present social security tax levels are being challenged by some segments of the public, would seem to be particularly ill-advised.

ELIMINATION OF THE MONTHLY EARNINGS TEST

As part of the Social Security Amendments of 1977, Congress sought to simplify the earnings test and make it a better measure of lost earnings by replacing the monthly earnings test with a strictly annual earnings test, except for one "grace year."

Before 1978, beneficiaries could receive full benefits for any months they did not work, even if their annual earnings exceeded the annual exempt amount. This resulted in different treatment of beneficiaries who had similar amounts of annual earnings, but different work patterns.

For example, before 1978, a person earning $20,000 a year by working regularly throughout the year had all social security benefits withheld. But a person earning $20,000 by working for 8 months, received benefits for 4 months. People who customarily worked less than 12 months a year were able to collect benefits for months they did not work even though they had not changed their work patterns and they had substantial annual earnings.

PROBLEMS RESULTING FROM ELIMINATION OF THE MONTHLY TEST

While eliminating the monthly earnings test was proposed by the Administration and enacted by the Congress in order to make the earnings test simpler and a better measure of lost earnings, some problems have become apparent. In an effort to deal with these problems, the House of Representatives passed H.R. 5295 last December. I would like to share with you today the Administration's views on the issues addressed by this bill.

IMPLEMENTATION

In implementing the 1977 amendments, the Administration interpreted Congressional intent to be that a beneficiary who has used the monthly earnings test before 1978 could not use the monthly test again in 1978 or later. The legislative history of the 1977 amendments, including the cost estimates and other information provided by the Administration and adopted in the committee reports, imply this intent.

The 1977 amendments were signed into law on December 20, 1977, only a few days before the new earnings test provision became effective on January 1, 1978. This did not allow sufficient time for the Administration to review the new law, resolve all questions regarding its implementation, and prepare and issue revised operating instructions. Since SSA field offices did not receive the new implementation procedures until May 1978, some people who were paid benefits in early 1978 based on prior law were overpaid. We estimate that about 50,000 beneficiaries may have been overpaid in 1978 because they used their grace year before 1978. These beneficiaries understandably felt that 1978 should have been considered their grace year.

The Administration has already taken administrative steps to minimize hardships caused by the delay in implementing the 1977 amendments:

We recovered only that part of 1978 overpayments caused by the delay which could be collected from benefits for June through December of 1978.

We have, upon request, prorated or deferred to a later period the recovery of overpayments caused by the delay.

We have permitted people to withdraw their original benefit applications, refund all benefits paid up to that point, and refile as of 1978 or later if it was more advantageous for them to establish a new grace year.

H.R. 5295 would give all beneficiaries a grace year after 1977 in order to help people who lost benefits because they had a grace year before 1978. The Administration strongly opposes this provision. Making such a change so long after the fact

not undo the confusion that occurred in the past. We believe that the administ- steps already taken have softened the adverse effects of the 1977 amend- nts on people who used their grace year before 1978. In addition, this provision of .R. 5295 would result in a cost to the social security program of $58 million in cal year 1981.

EARNINGS AFTER BENEFITS END/MEDICARE

There are two technical problems that have arisen from the elimination of the onthly earnings test.

The policy of having only an annual earnings test except for 1 grace year has luly harsh results for some non-retiree beneficiaries, such as children, students, thers and fathers. The grace year allows people who are retiring to come on the efit rolls in the middle of a year with earnings above the annual exempt amount still receive benefits for months in which they do not work. However, there is comparable provision for people who are expected to leave the benefit rolls and to work. For such people, benefits paid earlier in the year can become overpay- and have to be repaid from current earnings. It would make more sense to people who go off the rolls during the year to keep benefits paid up to that nt, regardless of how high their earnings are after their benefits end. Such an oach would also avoid discouraging people from working.

Take for example, a college student who received benefits of $175 a month for nuary through May of 1979 for a total of $875. The student graduated in May of 79 and got a job from June to December with earnings of $5,500. The $5,500 arned in 1979 is $2,020 more than the $3,480 exempt amount for people under age If the student already used the grace year before 1979, all $875 of benefits for 79 would have to be paid back, even though the student was not on the benefit olls while working.

The second problem arising from the elimination of the monthly earnings test ems from the requirement that people must be entitled to social security benefits n order to be covered by Medicare hospital insurance benefits. Thus, people who need hospital insurance protection must file for social security benefits even if they do not want to retire. The problem is that after they file for social security benefits n isolated month of low or no earnings triggers the grace year for these people and he monthly earnings test is not available to them in the year they actually retire. Often when this happens, few, if any, benefits can be received in the year the erson actually retires.

At present, people can regain the use of the grace year by withdrawing their- enefit applications and repaying both the social security benefits and any Medicare benefits received up to that point. However, in some cases this is not practical since Medicare payments can amount to thousands of dollars.

H.R. 5295 would solve these problems by restoring the monthly earnings test in the year entitlement ends for people receiving child's (including students), mother's, or father's benefits (retroactive to 1978) and by providing for separate applications for social security and Medicare benefits. It would also permit people who have already used their grace year, but who want the grace year in a later year, to withdraw their application for social security benefits without affecting Medicare benefits.

The Administration favors the enactment of these proposals in H.R. 5295. We should note that they are similar in intent to legislation submitted to the Congress on February 20 of this year as part of our proposed "Social Security Amendments of 1980." However, in view of current budgetary constraints, we recommend that the effective dates of the provisions be delayed until October 1981.

SELF-EMPLOYED

One final problem arising from the elimination of the monthly earnings test involves retired self-employed people whose social security benefits are reduced because they receive payments for work they did before retirement.

Before the 1977 amendments, retired self-employed people could receive full benefits for months in which they did little or no work, even if they received substantial payments from work done in prior years. This was because the monthly earnings test included a substantial services test which permitted full benefits to be paid for any month in which a self-employed person did not work more than a certain number of hours. Under the current annual test there is no current-services exception. Some retired self-employed people therefore get fewer social security benefits than they did previously because they are getting deferred payments based on work they did before retirement.

This problem is compounded because the law treats employees and the self-employed differently with respect to when deferred income is counted for the earnings test. Employee wages are counted when earned, regardless of when received. However, self-employment income is counted when received, even if the work was done in a prior year. Therefore, a retired self-employed life insurance agent, for example, may receive no social security benefits because of renewal commission from policies sold before retirement. In the same situation, a retired agent who was an employee gets full benefits.

The people affected by this problem are mainly retired self-employed life insurance agents and retired farmers. Some other self-employed businessmen, including retired partners, are also affected.

H.R. 5295 would address this issue by allowing beneficiaries to not count under the earnings test any self-employment income they get after coming on the benefit rolls based on work they did before they came on the rolls. The Administration is strongly opposed to this provision of H.R. 5295.

We recognize that the elimination of the monthly earnings test has adversely affected some retired self-employed people who are receiving income based on work they did before retirement. Also, we think the treatment of self-employed people should be as consistent as possible with the treatment of employees under the earnings test. However, we believe that the cost and potential benefits of this provision must be considered in relation to the costs and benefits of more significant changes in the program. The provision would help the relatively few beneficiaries who have substantial earnings from work done before retirement but would add $36 million to social security program costs in fiscal year 1981.

In summary, the Administration recognizes that some problems have resulted from the elimination of the monthly earnings test and favors certain measures to solve those problems. Specifically, we favor those provisions of H.R. 5295 which would restore the monthly earnings test in the year entitlement ends for certain beneficiaries and which would provide for separate applications for social security and Medicare benefits—provided that the effective dates of the provisions are delayed until October 1981. These provisions preserve the equity and rationality of the earnings test. We are, however, strongly opposed to those provisions which would allow the self-employed to exclude certain deferred income from the earnings test and which would give all beneficiaries a grace year after 1977. These proposals are especially undesirable in view of current budgetary constraints and the significant additional costs that would be imposed on the social security trust funds.

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

Senator DOLE. Next we have a panel consisting of Mr. Rice Brown, chairman of the Committee on Federal Law and Legislation, National Association of Life Underwriters; Denis Mullane, president, Connecticut Mutual Life Insurance Co.; Roger Joslin, vice president and treasurer, State Farm Mutual Automobile Insurance Co.; Stanley Hackett on behalf of Colonial Life and Accident Insurance Co.; and Howard Woodside, vice president, governmental affairs, Sentry Insurance Co., Stevens Point, Wis.

We also have Senator Thurmond here.

Senator THURMOND. Mr. Chairman, I ask that my statement be placed in the record as if read in full.

Senator NELSON. It will be printed at an appropriate place in the record.

[The statement of Hon. Strom Thurmond follows:]

STATEMENT BY SENATOR STROM THURMOND

Mr. Chairman, I wish to thank you and the other members of the Social Security Subcommittee for permitting me this opportunity to testify in support of my bill, S. 2083, and also to make a few remarks regarding other legislation under consideration by the Subcommittee relating to the Social Security earnings limitation.

The distinguished Ranking Member of the Finance Committee, Senator Dole, and I introduced S. 2083 on December 5, 1979, to remedy a problem that has arisen with the 1977 Amendments to the Social Security Act in regard to the application of the "earnings test" to recipients of social security retirement benefits. This legislation would provide relief to certain retired, formerly self-employed persons who are having their social security retirement benefits reduced because of the receipt of deferred payments for services rendered prior to retirement.

ome examples of the types of deferred income received by various categories of ed self-employed persons are as follows: Many insurance agents depend on ewal commissions on insurance policies which they originally sold for a substan- portion of their retirement income. Inventors and authors frequently receive erred income after retirement from patents and copyrights. Lawyers, doctors, countants, and other professionals receive deferred income from work in progress retirement and return of capital invested in a business partnership. Farmers en sell crops in the year they begin receiving social security which were raised ring or prior to their retirement year.

Essentially what the 1977 Amendments did was to substitute an "annual earn- " test for a combined "annual-monthly earnings" and "substantial services" Under pre-1978 law, this type of deferred income earned prior to entitlement to tirement benefits was not counted, because the recipients generally would not be med to have engaged in "substantial services," defined principally as working er 45 hours per month in self-employment. As long as this substantial services st was not breached, self-employed beneficiaries receiving deferred income for rvices performed prior to retirement could receive the full amount of their social curity benefits each month. However, with the elimination of the monthly sub- ntial services test in the 1977 amendments, the unintended result was that these eferred payments were treated by the Social Security Administration as earned ncome and counted against the maximum that can be received without suffering a duction in social security benefits.

The unfortunate result, Mr. Chairman, is that many of these formely self-em- oyed, now retired persons are suffering a severe reduction in their retirement ncome. It is also my understanding that some insurance agents, and perhaps other ersons, are postponing retirement, hoping that Congress will change the law. These ersons have planned their retirement on the expectation that they would receive he full amount of their social security benefits plus renewal commissions on insur- nce policies sold by them.

Mr. Chairman, what makes this situation as frustrating for the affected persons is iat it is clear that Congress never intended this to result from the 1977 changes to he Social Security Act. In fact, in August, 1978, the Senate adopted an amendment ntly sponsored by the distinguished Chairman and then Ranking Member of the enate Finance Committee, Senators Long and Curtis, to correct this problem, but legislation died in the House. No similar proposal has come before the Senate in is Congress, but the House of Representatives passed a bill on December 19, 1979, R. 5295, to take care of this problem and several others related to the change in he earnings test made by the 1977 act. That bill is now before this Subcommittee long with the bill Senator Dole and I introduced and several similar proposals.

Mr. Chairman, while there is some cost to the social security trust fund associated ith this legislation, I would like to emphasize that this cost would have had to ave been borne anyway, had it not been for the unintended effects of the 1977 amendments. Thus, what we are really talking about is a "false savings" to the trust fund that is coming out of the pockets of retired persons who were fully expecting to receive this money in the form of social security retirement benefits.

Furthermore, since there appears to be strong sentiment in Congress both for assage of legislation to correct these unintended effects of the 1977 amendments nd for making the remedial legislation retroactive to the beginning of 1978 when ie new law became operative, the initial budgetary impact will be less the quicker uis corrective legislation is enacted. I also understand that revised cost estimates y Social Security actuaries peg the cost of this legislation significantly lower than the estimates presented in the House Committee Report accompanying H.R. 5295. The fair, responsible course appears for Congress to enact remedial legislation as promptly as possible. Out of a sense of fairness to self-employed persons who were counting on both deferred income payments and their full social security benefits, and in order to alleviate the unintended harsh effects of the 1977 amendments to the Social Security Act, I urge prompt approval of this legislation.

Mr. Chairman and members of the Subcommittee, I am co-sponsoring S. 1287, a bill introduced by Senator Goldwater, which would repeal altogether the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older. Additionally, I am a co-sponsor of Senator Jepsen's bill, S. 1418, which is designed to achieve the same results, but would be implemented over a shorter period of time. Mr. Chair- man, there are several reasons why I believe that the earnings limitation should be eliminated. First, Social Security benefits should be paid as a matter of right, because the benefits are based on the earnings and contribution record of workers. Those workers who have contributed to the program should be entitled to the benefits without regard to an earnings test.

Secondly, I have serious doubts whether the rationale which underlies the earning ceiling is valid today. I am not in agreement with the proposition that discouraging older workers from working past an arbitrary retirement age will necessarily provide job opportunities for younger workers. This proposition is based on the erroneous belief that there are a fixed number of jobs in the work force. This reasoning may have been persuasive during the Great Depression when the earnings limitation was written into law, but economists today dispute this claim and argue that measures such as the Social Security earnings limitation neither benefit the economy nor significantly affect the rate of unemployment.

Thirdly, the undesirable effect of the retirement test is that many skilled and productive workers are "forced" out of the labor force. Workers reaching the retirement age are put to the difficult choice of deciding whether to continue working and forego their Social Security benefits or retire and receive their benefits. Not only does the economy suffer because of the loss of productive workers, but the workers themselves must suffer through the very dehumanizing experience of being required to sit idly at home in order to receive the full amount of Social Security benefits to which they are entitled.

Fourth, the retirement test operates as a hardship to those persons who must work to supplement their inadequate social security benefits. This situation is underscored by the fact that the maximum amount payable to a worker who retired in January of 1977 at age 65 is approximately $100 a week, that the minimum is only $37 a week, and the average retirement benefit at the present time is about $56 a week.

Fifth, the earnings limitation is applied only to income from actual labor and not to interest, dividend or other unearned income. Mr. Chairman, I believe that it is unfair to apply the earnings limitation in such a discriminatory manner and thereby penalize only those persons whose income is derived from their labor.

Finally, I am not convinced that the repeal of the retirement test will cost the Social Security program additional amounts of money. Those retired workers rejoining the work force will pay additional Social Security tax, but the Social Security system will not be paying out to them any more money than it presently does.

Mr. Chairman, while I obviously favor doing away with the earnings limitation entirely, I urge immediate attention to the critical problem involving the treatment of deferred income received by formerly self-employed persons.

Thank you again for the opportunity to present my views and recommendations on these several important bills pending before the Subcommittee.

Senator THURMOND. At this time, I would like to present this panel. Mr. Rice Brown of Topeka, Kans. Senator Dole may have more say in that.

He is the chairman of the committee on Federal law and legislation, National Association of Life Underwriters and he is representing all 145,000 life insurance underwriters.

Mr. Denis Mullane, president, Connecticut Mutual Life Insurance Co., representing the American Council of Life Insurance, which is composed of 503 life insurance companies.

Mr. Roger Joslin of Illinois, vice president and treasurer, State Farm Mutual Automobile Insurance Co.

Mr. Stanley Hackett, Atlanta, Ga., on behalf of Colonial Life & Accident Insurance Co., Columbia, S.C.

Mr. Howard Woodside, Stevens Point, Wis., a vice president representing Sentry Insurance Co.

Thank you very much.

Senator NELSON. Thank you, Senator Thurmond.

We have three panelists. It is my understanding that you could present your viewpoint in 15 minutes.

Senator DOLE. Mr. Chairman, before Mr. Brown starts, I have a statement concerning the entire bill that I would like to have follow your statement at the beginning of these hearings.

Senator NELSON. It will be printed in the record.

enator DOLE. And I have a statement introducing Mr. Brown to committee. He is someone I have known for a long time in nsas. He is very successful in his business.

I ask that that statement be made a part of the record. I think ator Thurmond touched on the highlights, and we are happy to ve you here today.

The material referred to follows:]

INTRODUCTORY REMARKS ON RICE BROWN

Mr. Chairman, before the panel begins, let me say a special word of welcome to Brown, president of Rice Brown, Incorporated, a personal and business financial planning organization in Topeka, Kansas. I have known Mr. Brown for a number of years and am most happy he is appearing before the committee on behalf the national association of life underwriters.

Mr. Brown is a chartered life underwriter and is in the process of completing his ers in financial counseling. He entered the life insurance business in 1963 and received many honors in the last 17 years. Among, them, he is a life and alifying member of the million dollar round table and a member of the national erve life millionaires division and president's club. He was reconized last year for ing sold twelve million dollars worth of insurance.

n addition to his successful career in the insurance industry, he has found time involved in local, state and federal, civic, political and business activities. He is ently serving his second term as trustee of the national association of life derwriters and he is the chairman of the federal law and legislation committee.

lice, welcome to the Senate finance committee. We look forward to your imony.

Mr. BROWN. I appreciate that.

Senator NELSON. I am happy to have you all here, including Mr. oodside, vice president of Sentry Insurance, Stevens Point, Wis.

STATEMENT OF RICE E. BROWN, CLU, CHAIRMAN, COMMITTEE ON FEDERAL LAW AND LEGISLATION, NATIONAL ASSOCIATION OF LIFE UNDERWRITERS

Mr. BROWN. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am Rice Brown om Topeka, Kans. I am a life insurance agent there, but today I m testifying for the National Association of Life Underwriters as trustee and also as the chairman of its Federal law and legisla- ion committee.

We want to discuss the repeal of the monthly measure of the cial security earnings test and the impact it has on self-employed e underwriters. We are recommending some legislation to restore me equity in that area.

I have a formal statement, Mr. Chairman, that I wish to submit or the record, but I wish to summarize my remarks here.

I am going to concentrate on the retirement test and how it elates to life underwriters. But the National Association of Life nderwriters would like to associate itself with the American ouncil of Life Insurance and the representatives of the property, nd casualty industry because we endorse the concept that all self- mployed agents—life, health, property, and casualty and general gents—have similar problems and therefore seek some kind of egislative relief.

The National Association of Life Underwriters is a Washington- ased trade organization. It is made up of a federation of 1,000 tate and local associations throughout the 50 States. Behind those ate organizations is 145,000 life insurance and health insurance

agents, general agents and managers, the real people working in the world, trying to help people with their insurance problems.

We call these individuals life underwriters. Many of them in one way or the other, has been affected by this particular change in the social security retirement test.

A life insurance agent who actually works as an employee for an insurance company is affected by the change in the test because many times, his company does not have every single type of product his clients need. Therefore he needs to sell that kind of product but from a company he is not primarily associated with. When he does, he earns self-employed income.

Many life insurance people are completely self-employed. They do not sell for any one base company. They sell for several and they pay their own social security tax, and in paying their social security tax, 100 percent of their income when they retire is self-employed income.

Additionally, we have individual sales offices in the countryside where the general agents who run that organization are not salaried but they earn commissions directly as an override on a percentage of what the agents themselves earn. These earnings are classified as income from self-employment.

So, every single part of the insurance industry, whether an employee or self-employed or general agent, is in one way or another touched by the fact that it has self-employment income.

The industry has long paid its agents and general agents commissions. The agent receives a percentage of the premium paid for a life insurance contract as his compensation. The general agent usually operates and runs the office, receives a small percentage of the agent's commission.

When a new life insurance policy is sold, a first-year commission is paid. Each year that policy is left in force, there is a renewal commission paid.

Senator, that is where the rub is, because social security has long held there is a difference between the way a self-employed life underwriter should treat his first year renewal commissions and the way an employee agent does.

Social security law says the self-employed agent counts renewal commissions as income in self-employment when they are actually received, even though he may have retired at that time. Employee agents count them when the policy is sold.

Before the repeal of the monthly earnings measure, it really did not make much difference because we had, as Mr. Driver pointed out, a substantial service clause, and therefore when the income came in, if the individual was fully retired, there really was not a problem. When we eliminated that saving clause all the renewal commissions had to be counted as self-employed income.

Now, life insurance people have a particular problem. The base job of our 145,000 members is to get out and help people understand what they are going to receive from social security benefits, and what they have to use to augment those benefits to retire.

And in order to do that, we have to have trust that the system is going to work.

Now you can understand the difficulty we are having today in trying to explain what social security benefits our clients will get,

when in fact we, ourselves, have ended up being the nonbeneficiaries of a system we are assuring all of our clients they will be beneficiaries of.

Fortunately, Congress has on hand the means to change this and bring us back on the proper course. That would be H.R. 5295, a bill the House unanimously passed last December. Section 3 of that bill, which Mr. Driver just opposed, would take care of our problem.

In the Senate, I am happy to say that my Senator from Kansas, Senator Dole, joined in with Senator Strom Thurmond in sponsoring Senate bill 2083 which does the same thing as section 3 of H.R. 5295.

Both of these bills are retroactive to January 1, 1978, and they apply themselves to all income received after the age of entitlement to social security benefits. We want to thank Senator Thurmond, Senator Dole, and the House Representatives for their consideration in this particular action.

It is hard for us to really believe that the hardships that have come from the monthly test repeal were foreseen by Congress and therefore represent a conscious decision. We believe it was really inadvertent, the kind of thing that shakes out of most large, complicated bills.

We hope this committee, Mr. Chairman, will take the first step in the Senate to correct this mistake and pass favorably on section 3 of H.R. 5295 or S. 2083.

Mr. Chairman, I want to thank you. This completes my testimony.

I would like to hand my microphone over to Mr. Mullane.

Senator NELSON. Thank you.

STATEMENT OF DENIS MULLANE, PRESIDENT, CONNECTICUT MUTUAL LIFE INSURANCE CO., ON BEHALF OF THE AMERICAN COUNCIL OF LIFE INSURANCE

Mr. MULLANE. Mr. Chairman, Senator Dole, I am Denis Mullane. I would like to thank you very much for the opportunity to present this testimony.

I am the president of Connecticut Mutual Life and today I am representing not only the American Council of Life Insurance but also the Health Insurance Association of America.

My testimony today will be limited to the affect on life and health insurance agents. That does not imply that we oppose the inclusion of property and casualty agents. I do not have the expertise to respond in that area.

I have submitted a written statement that I request be included in the record, therefore I shall not read it, but would like to outline some important highlights.

First of all, we support the statement made by the National Association of Life Underwriters and urge the adoption of relief provided by section 3 of H.R. 5295 which is identical to the provisions of the Senate bill 2083 introduced by Senators Thurmond and Dole.

Whatever legislation is enacted we believe should include:

One, exclusion of renewal commissions on policies sold before retirement and the calculation of earned income under the retirement test.

Two, it should be made clear that this relief is extended to overriding commissions earned by retired general agents.

As an aside, I am currently a salaried employee, and therefore not affected by this legislation but in the past I have been a general agent and I know, in addition to savings and social security, the only source of retirement for a general agent is this flow of renewal commission.

Three, the relief should be extended to renewal commissions on health and accident policies in the same way because the problem is identical whether the agent is living by selling life insurance, health insurance, or some combination of both.

Four, for self-employed agents, this relief should be applied at age 62 so that the self-employed agents would be treated the same as those considered employed.

Five, the legislation should be made effective January 1, 1978 to fully correct the unintended results of the 1977 amendments. Those results were described as unintended by your own staff reports, sir.

Despite specific budget concerns at this time, we urge prompt enactment of this relief to correct an inequity that was not intended by the 1977 amendments. That inequity, sir, consists of the fact that two agents whose duties have been the same, whose incomes have been the same and whose renewal incomes have been the same, may be given exactly opposite treatment depending on whether an agent is categorized for social security purposes as an employee or is self-employed.

It is ironic that the self-employed has paid more for the benefit he does not get.

That concludes my testimony, sir.

Senator NELSON. Thank you.

Mr. Joslin?

STATEMENT OF ROGER JOSLIN, VICE PRESIDENT AND TREASURER, STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.

Mr. JOSLIN. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify here.

As introduced by Senator Thurmond I am Roger Joslin, vice president and treasurer of State Farm Mutual Automobile Insurance Co. I appear here on behalf of that company and its subsidiary companies out of concern for the situation in which our over 13,000 self-employed agents find themselves.

Senator NELSON. There are 13,000 self-employed agents?

Mr. JOSLIN. 13,000 agents representing the State Farm Insurance Co. on a full-time basis.

Senator NELSON. Your company alone?

Mr. JOSLIN. Yes, sir.

It is an unexpected privilege to appear following the distinguished panel of Senators. While they were seeking to eliminate the earnings test entirely, we point out that we are trying to restore the retirement test for people who have, in fact, retired.

People who had every reason until late 1977—as the Commissioner said—actually, until the middle of 1978—to feel that they ould receive benefits, should receive benefits after they retire.

We even appreciate the remarks of Commissioner Driver who dicated that he would support changes that would provide equity equity would cost no money.

We are pleased to be here with the life underwriters and the ther members of the insurance industry and we support their tatements, as they support ours.

We, have overlapping constituencies. Our over 13,000 agents, sell fe insurance. They sell quite a bit of life insurance, in fact, but heir principal income comes from property and casualty insurice. Many life agents sell property, casualty, accident and health surance and receive a portion of their income from these lines of nsurance.

We urge favorable consideration of H.R. 5295 or its Senate counerpart, S. 2083.

These bills resolve a number of technical problems that were resented in other forms of legislation. They meet the primary bjective of correcting the inequities which were totally unintended s to people who are self-employed, totally retired, yet receive some come after their retirement.

As I said, we feel that this corrective legislation should apply to " lines of insurance equally. Whatever this compensation is alled, whether it is a sales commission, a renewal commission, an verride compensation for service, deferred compensation or some her name it should be treated in the same way.

We feel that the age of retirement really should not be a factor. his legislation should parallel the social security rules for entitlement to benefits at age 62 and beyond. Finally, if at all possible, he Congress should correct completely the unintended consequences of its action in late 1977, that is restore benefits retroactive to the beginning of 1978. Some people had arranged their 'airs and retired prior to the end of 1977, yet found that their enefits were reduced in 1978 and years thereafter.

Thank you.

Senator NELSON. May I ask a question there?

Mr. JOSLIN. Certainly.

Senator NELSON. The IRS would treat income as earned when it received, right?

Mr. JOSLIN. For a cash basis taxpayer? Yes, sir.

Senator NELSON. Your argument is that this agent in fact has arned the money by the sale of the policy while he was actively orking but he retired and received the benefit later even though e earned it earlier?

Mr. JOSLIN. The normal procedure would be that a major portion f the compensation would occur and be provided to the sales agent servicing agent during his active years, but there would be ditional compensation, either renewal commissions or some other mpensation that would flow through on a normal basis after tirement and which obviously had to relate to efforts that were ade during his active years.

Senator NELSON. It would be all related to his active years, would it not? Because when he retired it was based on a sale made before he retired?

Mr. JOSLIN. Yes, The problem is that a different rule applies to the self-employed versus employees. Employee agent would not have their benefits reduced under similar circumstances.

Senator NELSON. I see.

Mr. JOSLIN. That is all I have to contribute at this moment and I thank you very much for the opportunity.

Senator NELSON. Thank you, Mr. Joslin.

STATEMENT OF STANLEY HACKETT ON BEHALF OF COLONIAL LIFE AND ACCIDENT INSURANCE CO.

Mr. HACKETT. I am Stanley Hackett with the law firm of Henkell & Lamon, P.C. of Atlanta, Ga. I am here on behalf of Colonial Life and Accident Insurance Co., Columbia, S.C.

Before my statement, I would like to thank Senator Thurmond for his kind introduction, and you, Mr. Chairman, and you, Senator Dole, for holding hearings today on this critical legislation. I have a written statement that I previously submitted to the subcommittee and I would appreciate it if that would be included in the record of these proceedings.

As noted, I am here offically on behalf of the Colonial Life and Accident Insurance Co. However, it might be more appropriate to say I am here on behalf of the some 2,000 self-employed insurance agents affiliated with Colonial. These are the people who are hurting from the 1977 legislation, These are people who retired prior to the effective date of the legislation and now have lost social security benefits; these are people who are getting ready to retire but cannot retire because they cannot afford to retire without their renewal commissions plus the social security benefits.

On behalf of Colonial and its representatives, I endorse the statements made by the other members of the panel and I particularly endorse the prompt passage of either S. 2083 or section 3 of H.R. 5295. Section 3 or S. 2083 would resolve all the problems that we have. This regislation would apply to renewal commissions on all types of insurance, be it life, health, accident, property, casualty. The legislation is retroactive to January 1, 1978.

It applies to payments received when a self-employed agent retires at 62; it applies to sales agents or general or supervising agents; and it applies to all payments received after retirement based on work performed prior to retirement.

Mr. Chairman, one other point. The Commissioner of Social Security indicated that the first-year cost of the legislation was $36 million and that was his sole basis, I gather, for the administration's opposition to this bill.

I might note that had this legisation been enacted in February 1980, the first year costs would have been only $24 million. The cost will continue to go up each year that the bill is not enacted simply because it does have a retroactive effective date.

Again, Mr. Chairman, I would urge the prompt passage of either S. 2083 or H.R. 5295, and I thank you for allowing me to participate here today.

Senator NELSON. I thank you very much, Mr. Hackett.

Mr. Woodside?

TATEMENT OF HOWARD WOODSIDE, VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS, SENTRY INSURANCE CO., STEVENS POINT, MICH.

Mr. WOODSIDE. Thank you, Mr. Chairman, Senator Dole. I am loward Woodside and I am vice president of Sentry Life Insurance o. based in Stevens Point, Wis.

I want to emphasize I am not a social security expert, but am ware of many of the concerns of our people relative to the appar- nt discriminatory treatment accorded to self-employed independ- nt insurance agents.

Sentry Life is a small to medium-sized company being part of the Sentry group of companies. Sentry Life markets its life and health nsurance products through two separate marketing mechanisms. ne mechanism utilizes employed life and health insurance agents. he other utilizes self-employed life and health insurance agents.

Upon retirement, our employed insurance agents participate in he company pension plan and are not entitled to renewal commis- ions thereafter. Because of this fact, they are not adversely affect- d by the Social Security Amendments of 1977 insofar as our ompany compensation plan is involved.

Nonetheless, our company supports H.R. 5295 for the employed nsurance agents of companies with a compensation plan differing rom ours where such agents have been adversely affected by the 1977 amendments.

Under our own circumstances, which are admittedly parochial, our main concern lies with the treatment of the self-employed life and health insurance agents engaged in the marketing of our products. Because others with far more expertise than I have more than adequately covered the subject, I do not propose to dwell upon he details of the Social Security Amendments of 1977 other than to reemphasize that the legislative history of the 1977 amendments would clearly indicate no intention to impose the inequitable result now being suffered by the self-employed agents.

Generally, the work of the self-employed agents is completed at the time of the sale of the policy. The practice of paying renewal commissions is almost unique with the insurance industry. In effect, it amounts to a form of nonqualified deferred compensation because compensation is paid in the form of commissions over a period of time for services rendered at the beginnings of the period. Normally, deferred compensation payments are not included in income for the purpose of decreasing a person's social security benefits.

Unfortunately, by treating the deferred renewal commisison compensation of self-employed agents differently than the deferred compensation paid by any individual in another industry, the cur- ent law would seem to single out these agents for unique and unfair treatment.

One of the reasons our company terminates the renewal commis- sions of our employed agents is that the company has made a ubstantial contribution to such retired agents' pension fund. The company contributes nothing to any retirement fund of a self- employed agent.

That agent, for retirement security, must rely upon the earnings generated from services rendered prior to retirement, including renewal commissions paid after retirement for services rendered prior thereto. It seems only equitable that the self-employed agent be granted the right to receive commissions as a pension benefit without reduction of social security benefits in the interest of fair play. This would result in substantially equal treatment between employed and self-employed agents upon their respective retirements.

In closing, I am compelled to remark that we believe in the concept that self-sufficiency during old age is a desirable social objective. In furtherance of that objective, our company respectfully urges your support in the enactment of H.R. 5295 particularly with respect to the subject I have discussed here.

My sincere thanks for this opportunity to address you and your thoughtful attention.

Senator NELSON. Thank you very much, Mr. Woodside.

We appreciate all of you taking the time to come here.

Do you have any questions?

Senator DOLE. I have no questions. I think they spelled out their wishes and I think that Commissioner Driver indicated that it has merit. It is not that it lacks merit. His question is the revenue figure involved.

Senator NELSON. Thank you very much, gentlemen.

[The prepared statements of the preceding panel follow. Oral testimony continues on p. 177.]

The National Association of Life Underwriters
1922 F STREET, N.W., WASHINGTON, D.C. 20006 • 202 / 331-6000

STATEMENT
WITH SUMMARY OF PRINCIPAL POINTS

ON

IMPLICATIONS FOR LIFE UNDERWRITERS OF THE REPEAL OF THE MONTHLY MEASURE OF THE SOCIAL SECURITY RETIREMENT TEST

TO THE

SOCIAL SECURITY SUBCOMMITTEE
OF THE SENATE FINANCE COMMITTEE

BY

RICE E. BROWN, CLU

Aril 21, 1980

63-893 O - 80 - 10

Summary of Principal Points In Statement of The National Association of Life Underwriters

1. Changes in the Social Security retirement test adopted in 1977 have adversly affected self-employed life underwriters. Social Security retirement benefits are lost because renewal commissions generated from sales made prior to retirement but which are paid after retirement count against Social Security benefits.

2. The impact of the retirement test changes is unfair. It is unfair because self-employed persons in other industries may earn $5,000 in new earnings before counting against benefits.

   Further, employee life underwriters do not deduct renewal commissions for Social Security retirement benefits as self-employed life underwriters must.

3. The impact on self-employed life underwriters was unforeseen and unintended.

4. Section 3 of H.R.5295 and S. 2083 discount from the definition of current earnings income received after retirement which was produced from work performed before retirement. Therefore, such earnings would not count against Social Security retirement benefits.

   Section 3 of H.R.5295 and S. 2083 make modifications applicable to persons age 62 and older and is retroactive to January 1, 1978.

5. NALU supports immediate passage of H.R.5295 (or S. 2083).

Introduction. Mr. Chairman and members of the Committee, my name is Rice E. Brown. I am a practicing life insurance agent from Topeka, Kansas. I am appearing here today in my capacity as Chairman of the Committee on Federal Law and Legislation of the National Association of Life Underwriters (NALU). NALU appreciates the opportunity to explain how repeal of the monthly measure of the Social Security earnings test has impacted unfairly on self-employed life underwriters and to recommend legislation to restore equity.

What Is A Life Underwriter? The National Association of Life Underwriters is a federation of approximately 1000 state and local associations which in turn have a combined individual membership of over 140,000 life and health insurance agents, general agents, and managers doing business in virtually every community in the United States. The individual members of the federation are called life underwriters.

Agents compose the portion of the field marketing network which generally contacts the public face to face for the purpose of analyzing insurance needs and solving those needs. Agents can be either self-employed or employees of life insurance companies. In either case, they do exactly the same type of work.

General agents and managers compose that part of the field marketing force which provides the training, technical back-up and financial support for the agents who deal face to face with the public. They too can be self-employed or employees

of a company. In both cases, they do the same type of work, although the degree of financial risk for the success of an agency is different between general agents and managers.

Frequently, general agents or managers actively assist in the sales process by physically attending sales interviews. More frequently, perhaps, they provide behind the scenes assistance for each sale. In a very real sense, general agents and managers can be said to be part (albeit a small part in some instances) of most life and health insurance sales.

Life underwriters historically have exhibited a tendency to continue work after technically being eligible for Social Security retirement benefits. Therefore, the Social Security earnings test has been of interest to life underwriters personally. Repeal of the so-called monthly measure of the retirement test as part of the Social Security Financing Amend- of 1977, has heightened this interest acutely.

NALU is aware that there are other groups and individuals who have an interest in the subject of the Social Security earnings test. We are mindful, also, that various legislative proposals have been put forward to deal with aspects of the problem. NALU is most knowledgeable, however, about the way in which the abolition of the monthly measure of the retirement test has impacted on life underwriters. NALU intends to confine its remarks, therefore, to the problems applicable to life underwriters, and what might be done about them.

NALU would like to associate itself with the remarks

of the American Council of Life Insurance (ACLI) and the representatives on this panel of the property and casualty industry. NALU fully endorses the concept that all self-employed agents (life, health, property-casualty), and general agents have similar problems, and therefore seek similar legislative relief.

Life Underwriters and The Earnings Test: Past and Present. Current life underwriter problems with the earnings test began with the adoption of the Social Security Financing Amendments of 1977. This omnibus legislation contained much needed changes in the benefit formula and financing structure of Social Security. Included in the financing provisions was a repeal of the monthly measure of the Social Security retirement test.

The Past. Basically, the old earnings test provided that Social Security benefits could be lost to any beneficiary who earned more than a certain amount of money in any given year. That amount was known as the annual exempt amount and was indexed to consider inflation. The former rule, however, held out an exception which saved many individual beneficiaries from losing benefits in any given month certain criteria were met. This was called the monthly measure or monthly exception to the annual retirement test.

In the case of employees, the monthly test was a dollar one. It specified that in any given month new earnings were not in excess of one-twelth of the annual exempt amount, benefits would still be paid in that month even though total

new earnings for the year exceeded the annual exempt amount.

For self-employed persons, the monthly test was an hourly test rather than a dollar one. It provided that whenever a self-employed person had income from self-employment in any year which exceeded the annual exempt amount, benefits would still be payable in any month substantial services were not rendered. Substantial service was measured generally by the amount of hours worked rather than income produced. Generally, hours worked in a month less than fifteen were not considered to be substantial. Hours worked in a month between fifteen and forty-five merited investigation. Hours worked in a month in excess of forty-five were presumed to be substantial even though, incidentally, the amount of income generated was not.

The monthly exceptions for employees and self-employed persons were removed from the law effective January 1, 1978, although new beneficiaries are permitted a one-year adjustment period.

In most old age benefit cases, repeal of the monthly measure means that a beneficiary is limited in the amount of new income post-retirement work can produce after becoming eligible and filing for beneficiary status. For most individuals, the limit on new income is $5,000 this year. Self-employed life underwriters, however, typically receive old income after retirement which is treated by the earnings test like new earnings, even though no work is expended currently to generate it.

Receipt of this old type of income after retirement places in jeopardy the payment of Social Security retirement benefits.

Life insurance agents, whether self-employed or employed by an insurance company, typically generate two types of commissions in payment for their sales effort at the time a policy is placed. A first year commission is paid at the time the policy is initiated and consists of a percentage of the first year premium. In succeeding years, a small part of each year's premium is paid to the agent if the policy stays in force. These commissions are known as renewal commissions. They are often thought of as a form of retirement account, since they build up over the years and frequently constitute the only income after retirement other than Social Security many life underwriters expect to get.

General agents who are classified as self-employed usually earn some or all of their income from first year and renewal commissions also. The commissions earned by a general agent are usually called overrides and are based on the commissions earned from sales made by each of the agents under his direction. Though small in each individual case, when combined, overrides may produce substantial income.

The Present. It is the characterization given renewal commissions by Social Security combined with the repeal of the monthly measure which has caused the problem self-employed agents and general agents are experiencing with respect to Social Securi-

ty retirement benefits. Social Security considers renewal commissions current income when received. If receipt occurs after retirement, they count against the annual exempt amount. If they exceed $5,000 this year, Social Security benefits must be forfeited. Thus, a self-employed life underwriter receiving more than $5,000 a year in renewal commissions is in a position to lose some or all Social Security benefits regardless of his actual status as retired.

Under the old rules, the monthly measure of the retirement test would have saved the individual from the loss of benefits in instances where he was actually retired. That was so, because the monthly test would review the situation and determine that substantial services, that is, the requisite number of hours, were not worked. In those instances, the life underwriter would be able to receive full Social Security benefits plus renewal commissions.

Self-Employed vs. Employee Life Underwriters. The condition self-Employed life underwriters find themselves in is made all the more intolerable when their plight is contrasted with the treatment of employee life underwriters. Employee life underwriters count renewal commissions as income earned at the the time the original sale is made. After retirement, employee life underwriters may receive renewal commissions without affecting Social Security benefits at all, because those renewal commissions are not classified as current earnings, since they were so classified at the time of the original sale.

Under this anomalous situation, it is quite possible for twin life underwriters, one self-employed and the other an employee of a life insurance company, to be identical in every way with respect to their work records, family make up, retirement date, etc. Yet one, the self-employed life underwriter, stands to lose some or all Social Security retirement benefits after retirement, even though both do no new work at all.

It is very difficult to explain the logic in this disparity to a retired or soon to be retired self-employed life underwriter who made a decision years ago to be self-employed and who now finds that a life time of planning has been washed down the drain because of an Act of Congress adopted in 1977. In sports jargon, this is called changing the rules of the game after it is underway.

Actually, for some life underwriters, the action taken by Congress came after the game was over. There are life underwriters who retired prior to the effective date of the 1977 Act, who have subsequently had benefits taken away. It is ironic that this should happen to people who dedicated their working lives to creating economic security for others, security that was often based on Social Security. That they, themselves, should have their Social Security beneftis, and therefore, their personal retirement plans, placed in jeopardy, is ludicrous.

Corrective Legislation. NALU believes that self-employed life underwriters have been affected in a most

inequitable way by the repeal of the monthly measure. Whether the Congress really understood what repeal of the monthly measure would mean to people like self-employed life underwriters is unclear. We do not believe that Congress intended to produce the hardships which have occurred since repeal of the monthly test and the many more which will occur in the future. NALU urges the Subcommittee to endorse legislation that can be adopted this year to solve the problem.

NALU was delighted with the action taken by the House of Representatives last December in passing H.R.5295 by a vote of 383-0. Section 3 of H.R.5295 provides the relief self-employed life underwriters need.

Briefly, Section 3 of H.R.5295 would exclude income received currently from counting under the earnings test if the source of the income is attributable to services rendered prior to becoming eligible for retirement benefits. Section 3 would apply as of the date of entitlement to benefits in recognition that life underwriters are like other people and frequently retire at age 62. Further, Section 3 reverses the considerable damage done between the effective date of the 1977 Amendments and today, by making the changes provided by Section 3 retroactive to January 1, 1978.

In our opinion, Section 3 of H.R.5295 is an excellent response to the problem life underwriters face under the revised earnings test. NALU is pleased that distinguished members of the Senate Finance Committee have also taken steps to restore

uity to the earnings test. S. 2083, sponsored by Senator in conjunction with Senator Thurmond, is identical in language to Section 3 of H.R.5295. And, Senator Durenburger has sponsored S. 2034, a bill tailored to meet the needs specifically of life underwriters. NALU thanks these gentlemen for their leadership.

NALU would also like to recognize the groundbreaking effort of Senator Durkin in sponsoring S. 1554. Senator Durkin's bill is also tailored to meet the specific needs of life underwriters.

Congressional Precedent. All the bills described above are based on a precedent created by the Congress which applies to authors and inventors. They are able to exclude from the definition of income from self-employment royalties received today that are based on inventions, books, etc. created prior to retirement. Income derived from patents and copyrights is quite analogous to that derived from insurance sales. As with copyrights and patents, the act which creates the current income occurs years prior to its receipt.

Summary. NALU believes that action by this Subcommittee is urgently needed to solve a gross instance of inequity which we believe the Congress inadvertently created when it passed the Social Security Amendments of 1977. It is really difficult to believe that Congress deliberately set out to take away the Social Security benefits of a class of self-employed individuals whose only fault is that they did not anticipate

in the early 1950's (when insurance agents came under the Social Security System) that Congress would change the retirement test rules in 1977, and who, therefore, based a whole career around the situation as it existed prior to 1977. It is also difficult to believe that the Congress of the United States deliberately set out to treat one-half of the agency force differenty from the other half for purposes of the retirement test.

The Congress, however, can restore self-employed life underwriters to the status enjoyed by their colleagues who had the foresight to become employees of a life insurance company rather than set out on an independent course of action. Section 3 of H.R.5295 and S. 2083 would do that.

S. 2034, on the other hand, would place self-employed and employee life underwriters in close proximity to each other although not in exactly the same position. S. 2034 applies to beneficiaries age 65 and over. Employee life underwriters need not be sixty-five in order to "grandfather" renewal commissions from current income. Rather, they enjoy that status from the age sixty-two on.

NALU is acutely aware of the urgency of the problem faced by self-employed life underwriters. We have received many inquiries from members observing the inequitable and harsh treatment and urging NALU to act in resolving it. We believe that Members of Congress have received similar communications. NALU urges the Subcommittee to act swiftly and decisively in solving this problem.

STATEMENT

of the

AMERICAN COUNCIL OF LIFE INSURANCE

and the

HEALTH INSURANCE ASSOCIATION OF AMERICA

before the

SOCIAL SECURITY SUBCOMMITTEE

OF THE SENATE FINANCE COMMITTEE

by

DENIS F. MULLANE, PRESIDENT

CONNECTICUT MUTUAL LIFE INSURANCE COMPANY

on

H.R. 5295 WHICH MITIGATES THE UNINTENDED LOSS OF BENEFITS BY SELF EMPLOYED LIFE AND HEALTH INSURANCE AGENTS, CAUSED BY THE ELIMINATION OF THE SOCIAL SECURITY MONTHLY EARNINGS TEST UNDER THE SOCIAL SECURITY AMENDMENTS OF 1977

April 21, 1980

Mr. Chairman and members of the Subcommittee, my name is Denis F. Mullane and I am President of the Connecticut Mutual Life Insurance Company. I am appearing here today on behalf of the American Council of Life Insurance and the Health Insurance Association of America to urge the adoption of section 3 of the House-passed bill, H.R. 5295, which is identical to S. 2083 introduced by Senators Thurmond and Dole. The adoption of these bills is necessary to provide fair treatment under Social Security to retired self-employed life and health insurance agents who are now prevented from receiving Social Security benefits, to which they are justly entitled, solely because they are receiving renewal commissions from policies sold prior to their retirement. The Council represents 503 life insurance companies, which in the aggregate, have 95% of the life insurance in force in the United States and 97% of the assets of all United States life insurance companies. The 300 member companies of the HIAA provide health insurance protection for over 100 million Americans.

We support the remedial legislation provided by section 3 of H.R. 5295 and S. 2083 because the present law disrupts the retirement plans of a large number of our life and health insurance agents, including our general agents, who are either retired or expect to retire shortly. These individuals, who are self-employed during their working careers, receive renewal commissions and overrides after retirement from policies sold during their pre-retirement years. Such renewal commissions and overrides constitute a form of retirement income which our agents count on to supplement their Social Security benefits for their support in their retirement years. Unfortunately,

however, present law reduces and, in many cases, completely wipes out the Social Security benefits of retired self-employed agents who are receiving renewal commissions and overrides. This inequity appears to be an unintended result of the modification in the so-called earnings test adopted in the Social Security Amendments of 1977.

For Social Security purposes, life and health insurance agents are either "employees" or "self-employed" depending principally upon their relationship to the companies they represent. However, the day-to-day activities and the patterns of compensation of employee agents and self-employed agents are functionally indistinguishable in the representation of their insurance clients. Those agents considered to be employees pay FICA taxes at the usual employee rate with the employer company paying an equal amount. Self-employed agents pay Social Security taxes at approximately one and a half times the employee rate with no matching contribution.

Prior to the 1977 Amendments, the earnings test applicable to employee and self-employed insurance agents was functionally similar, although not identical. Employee insurance agents, like other eligible individuals, could retire as early as age 62 and qualify for Social Security benefits. In general, as under present law, their benefits were reduced by $1 for each $2 that their annual earnings exceeded a specified exempt amount (currently $3,720 for a beneficiary under age 65 and $5,000 for a beneficiary age 65 or over). However, under the so-called monthly retirement test, they were entitled to receive the full amount of benefits for any month in which they earned less than 1/12 of the specified exempt annual amount,

regardless of the amount of their annual earnings. For this purpose, an employee insurance agent's earnings for any month included the value of the commissions expected to be earned in the future on the policies sold in that month.

Self-employed insurance agents were subject to the same annual earnings test as employee insurance agents, which reduces Social Security benefits by $1 for every $2 in excess of the specified annual exempt amounts. However, the monthly earnings test was applied somewhat differently for them in that they were allowed to receive full Social Security benefits in any month in which they did not perform "substantial services". Generally, a self-employed underwriter was not considered to be rendering "substantial services" if his hours of work in any month did not exceed 45--regardless of how much he earned during that month.

For the most part, the earnings tests resulted in the same treatment for employee and self-employed life and health insurance agents. Those who remained fairly active, after reaching retirement age became ineligible for all or a portion of their Social Security benefits under these tests and those who were in fact substantially retired lost no benefits.

This situation was altered drastically for self-employed life and health insurance agents as a result of the 1977 legislation.

In December of 1977 the Congress eliminated the monthly earnings test, except for the first year of retirement. As a result, after the first year of retirement, an employee insurance agent is now no longer entitled to full benefits for any month in which his

earnings fall under the 1/12 benchmark. Similarly, a self-employed insurance agent is no longer entitled to full benefits for any month in which he did not render substantial services. Accordingly, if the annual earnings of a self-employed or an employee insurance agent exceeds the annual exempt amount, then Social Security benefits are lost for the year at the rate of $1.00 for each $2.00 of earnings above the exemption.

The elimination of the monthly earnings test has had a much more serious effect on retired self-employed agents receiving renewal commissions from policies sold during their pre-retirement years than on retired employee agents with similar renewal commissions. The renewal commissions that an employee agent receives on his pre-retirement sales are not considered to be earned in his post-retirement years and therefore do not result in loss of Social Security benefits. In contrast, the renewal commissions that a self-employed agent receives in his post-retirement years on his pre-retirement sales are considered to be earned in such post-retirement years and therefore frequently result in loss of his Social Security benefits. Consequently, as matters now stand, an employee agent and a self-employed agent can both be totally retired, can have virtually identical lifetime earning histories in the insurance business and can be receiving identical amounts of post-retirement renewal commissions; yet the self-employed agent may receive no Social Security benefits while the employee agent receives the maximum benefits. In each case, the retiree undoubtedly had counted on receiving both his renewal commissions and Social Security benefits to see his

family through their retirement years. Ironically, it is the individual who paid approximately one and a half times the employee's tax rate, during his actual working life who is denied the benefits during retirement.

The severe impact that the elimination of the monthly retirement test has had on self-employed insurance agents who need both their post-retirement renewal commissions and their Social Security benefits for their support during their retirement years, appears to have been completely unforeseen and unintended. The legislative history of the 1977 Amendments indicates that the deletion of this test was intended to eliminate abuse situations where individuals arranged to receive income for current services in a few months in order to receive Social Security benefits for the remainder of the year. The available evidence strongly indicates that the Congress did not intend the withdrawal of the monthly retirement test to have the harsh results, which are now so clearly evident for retired self-employed agents receiving renewal commissions as a result of services in pre-retirement years. Indeed, from the standpoint of equity there is no reason why the self-employed agent's Social Security benefits should be reduced or lost because he receives renewal commissions. Such renewal commissions, in a very real sense, form a part of his retirement income to no less an extent than the pension benefits which are received by retired employees without loss of Social Security benefits.

The impact of the 1977 legislation in withdrawing Social Security benefits from self-employed agents with renewal commissions has completely, and suddenly, disrupted the retirement planning of these

individuals who have been counting on their combined amount of Social Security benefits and renewal commissions for support in their retirement years. This disruption is particularly traumatic since the elimination of the monthly retirement test, triggering the loss of Social Security benefits, was made effective on January 1, 1978, only twelve days after enactment of the 1977 Amendments. In effect, the result was to take away the Social Security benefits of many retired self-employed insurance agents without a hearing or any prior notice.

Accordingly, there is urgent need for the prompt adoption of remedial legislation to permit a retired insurance agent to receive the full amount of his Social Security benefits to which he is justly entitled in addition to his renewal commissions.

Such remedial legislation, if it is to be fully effective, should have the following characteristics:

1. It should have the effect of excluding renewal commissions received by a retired insurance agent from life insurance policies which were sold by him before his retirement from self-employment earnings taken into account for purposes of the earnings test.

2. It should clearly extend the relief to renewal commissions and "overrides" received by a retired general agent. General agents earn their self-employment income not only from their own personal production in the same fashion as other agents but also in the form of so-called "overrides" which essentially constitute renewal commissions on the business written by the agents under their supervision. Accordingly, retired self-employed general

agents are justly entitled to the relief with regard to their renewal commissions and their "overrides".

3. The relief should also extend to self-employed agents who sell health and accident policies. It is common for life insurance agents to sell disability income insurance and other forms of long term accident and sickness insurance as a natural adjunct to their function as life insurance agents. Indeed, some agents sell only health and accident insurance while others sell more such contracts than life insurance and annuities. These agents have identical problems of loss of Social Security benefits when they retire and receive renewal commissions and should be accorded relief under the legislation.

4. Moreover, to furnish full relief to self-employed agents, the relief should also be provided for agents who retire at age 62 rather than at 65. Employees generally, and employee agents in particular are allowed to qualify for retirement benefits at age 62. It would be appropriate to provide identical relief to the self-employed agents similarly situated.

5. Finally, the remedial legislation should be made effective as of January 1, 1978, the date that the elimination of the monthly earnings test took effect. Unless this is done, many agents who were initially unaware that their Social Security benefits were taken away by the 1977 legislation may be required to repay benefits received during past years which they need for support. Virtually everyone familiar with the circumstances surrounding the 1977 Amendments agrees that this result was not intended.

We appreciate all the efforts that have been made in the Finance Committee and in the Senate to introduce appropriate legislation to remedy the present unfair treatment of retired self-employed insurance agents receiving renewal commissions. This includes S. 2034 introduced by Senator Durenberger, S. 1554 introduced by Senator Durkin, and S. 1498 introduced by Senator Matsunaga. We believe, however, that the best approach to such remedial legislation is offered by S. 2083 and section 3 of H.R. 5295 which provide that income attributable to services rendered before an individual first becomes entitled to old-age insurance benefits are not to be taken into account in determining his or her earned income for purposes of the earnings test. This provision meets all the tests for granting effective relief to health and life insurance agents, including general agents, that we have outlined above. More specifically, it would grant appropriate relief in regard to the earnings test to retired life and health insurance agents, retired general agents, and all other retired individuals receiving income from personal services rendered prior to retirement. This relief would apply to individuals who retire at age 62 as well as to those who retire after this age. Finally, since the legislation would be effective after December 31, 1977, it would provide relief for the years 1978 and 1979, thereby preventing hardship.

The adoption of the legislation embodied in section 3 of H.R. 5295 and S. 2083 should not be deferred on budgetary grounds. As indicated by the Finance Committee staff, the increase in Social Security expenditures resulting from this legislation would be modest--amounting to an estimated $24 million for fiscal year 1980

and substantially less than this amount for following years.* The cost is extremely modest in view of the widespread relief that the legislation would provide to insurance agents and all others who are now unjustly deprived of their Social Security benefits because of the receipt of income that was actually earned prior to retirement.

Moreover, the pending legislation should not and cannot properly be judged on the basis of its effect on Social Security expenditures. The insurance agents and other individuals who would be accorded relief by the legislation have paid Social Security taxes during their working careers and have fulfilled the coverage and age requirements for Social Security benefits. They have planned their retirement programs in the expectation that they would receive such benefits without reduction for the receipt of income that was earned before they retired. Remedial legislation is required as an act of justice to correct an egregious wrong.

Accordingly, we strongly urge the prompt adoption of the legislation embodied in section 3 of H.R. 5295 and S. 2083.

Before I close my remarks, I want to express my appreciation for the opportunity to appear before this distinguished Subcommittee. Thank you for your kind attention.

*Data and materials for the fiscal year 1981 Finance Committee Report under the Congressional Budget Act prepared by the staff for the use of the Committee on Finance, U.S. Senate, February 1980, 96 Congress, 2d session, p. 35.

STATEMENT OF ROGER JOSLIN
VICE PRESIDENT AND TREASURER
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
ON H.R. 5295
BEFORE THE SUBCOMMITTEE ON SOCIAL SECURITY
OF THE SENATE COMMITTEE ON FINANCE
APRIL 21, 1980

Mr, Chairman and Members of the Subcommittee:

My name is Roger Joslin, and I am the Vice President and Treasurer of the State Farm Mutual Automobile Insurance Company. I am here today on behalf of that company and its subsidiary insurance companies (collectively referred to as "State Farm") to express our strongest support for the passage of legislation that would permit retired, self-employed insurance agents to receive renewal commissions, or payments in the nature of renewal commissions, without any offsetting reduction in Social Security benefits. H.R. 5295 (Section 3) which passed unanimously the Subcommittee on Social Security of the House Ways and Means Committee, the House Ways and Means Committee and the House, would provide for this important relief. */

Summary

Self-employed insurance agents are compensated on a commission basis; they earn commissions on policies sold or serviced by them and,

*/ Various Senate bills have been introduced this term addressing this social security problem felt by the self-employed. Among them are S. 2083 (Messrs. Thurmond and Dole), S. 2034 (Mr. Durenberger), S. 1554 (Mr. Durkin), S. 1498 (Mr. Matsunaga). S. 2083 consists of Section 3 of the House-passed bill.

thereafter, on policies renewed by the policyholders. When agents completely retire and cease their sales and servicing activities, in many situations they may continue to receive payments as renewal commissions or payments in the nature of renewal commissions in respect of policies sold and serviced prior to retirement.

Under pre-1978 law, the cessation of activity marked an agent's "retirement" for Social Security purposes and permitted him to collect his anticipated Social Security benefits without regard to his receipt of post-retirement payments from pre-retirement services. The Social Security Amendments of 1977 amended the law to determine "retirement" with reference to "earnings". Because an agent's post-retirement receipts are considered earnings, his Social Security benefits are reduced or eliminated by receipts in excess of a statutorily prescribed amount.

We believe the 1977 amendments were not designed to deprive completely retired individuals of their Social Security benefits, and we believe that this consequence of the new law is wholly unintentional. Accordingly, we urge that remedial legislation such as Section 3 of H.R. 5295 or S. 2083, be reported favorably by this Subcommittee and we hope it might be passed by Congress in short order.

1. Nature of the Problem.

We are appearing before you out of concern for the situation of over 13,000 agents associated with State Farm. Our companies contract

with these self-employed agents to sell and service the various lines of insurance written by State Farm, including life, accident, health, property and casualty policies. Prior to their retirement, these agents are compensated for their selling and servicing efforts by payment of commissions and service compensation. Upon retirement, these agents may receive, in return for the surrender of their contracts, "termination payments" which are computed in part on a formula basis and are paid in installments for five or more years. These payments are made in respect of policies sold and serviced by the agents prior to their retirement.

When "termination payments" were introduced into the State Farm agent's contract in 1966, an important consideration was that, whatever legal label might be given those payments, completely retired agents would be able to rely on the monthly retirement test to protect their Social Security benefits.

The Social Security Amendments of 1977 eliminated the monthly retirement test, except for the initial tax year of retirement. We understand that the intention of Congress was to prevent persons who work <u>part of a year</u> from receiving Social Security benefits during months when they are not working. Annual earnings--either wages or net earnings from self-employment--in excess of a prescribed amount now cause a reduction in Social Security benefits. Unfortunately, the annual earnings test does not make provision for self-employed insurance agents who are fully <u>retired</u> and yet receive payments resulting from their

activity prior to retirement. As a result, many retired self-employed individuals are suffering a severe reduction in Social Security benefits. As of December 31, 1979, we have approximately 231 retired agents receiving termination payments from State Farm.

A number of our agents have written or phoned, telling us of the loss of their Social Security benefits. Especially troubling are the situations of agents who retired prior to the enactment of the 1977 legislation -- these men and women had planned to rely on both their "termination payments" and Social Security benefits in their retirment years. But now, some agents are forced to choose which of these two income sources they will lose.

Agents, who have been told that they "earned too much" to be considered retired, have asked us what they need to do to truly "retire" in the eyes of the law. Other agents have asked why their friends and competitors, who happened to be employee agents before retirement, are now considered to be retired even though they, too, receive renewal commissions. The agents usually note that the differential treatment is especially ironic in light of the higher Social Security tax rate imposed by law on them as persons who are self-employed, relative to employees.

It is our belief that Congress did not intend to deny benefits in the situation I have described. For our agents who are adversely affected and others in similar circumstances, there is considerable urgency in enacting corrective legislation in this Congress.

2. Remedial Legislative Proposals.

Shortly after the passage of the 1977 law, its inadvertent but harsh impact on insurance agents was perceived. In the latter part of 1978, the Senate passed a legislative amendment introduced by Senators Long and Curtis that would provide relief for insurance agents. */ The House was unable to consider this provision prior to the end of the term.

In 1979, the Social Security Subcommittee of the House Ways and Means Committee held hearings in respect of this issue. At that time various representatives of the insurance industry testified and, State Farm explained that property and casualty insurance agents were adversely affected by the 1977 law in the same manner as life agents. Then Commissioner of Social Security, Stanford Ross, also testified and recognized the need for remedial legislation to cure the insurance agents' problem. The Subcommittee thereafter voted unanimously to report H.R. 5295 to the full Committee. Section 3 of the bill excludes from the retirement earnings test post-retirement income from pre-retirement self-employement services.

H.R. 5295 was reported out by the Ways and Means Committee and was passed by a unanimous vote on the House Floor.

*/ The amendment was directed at life insurance agents although the statements of Senators Long and Curtis explained the problem in respect of insurance agents generally.

Various pending Senate bills are aimed at curing the problem as well.

The inadvertent inequities resulting from the 1977 law have, therefore, been recognized and acted upon by both Houses of Congress at different times. In view of the time period over which the issue has been pending and the ages of the adversely affected individuals, we urge this Subcommittee to take favorable action in this area as quickly as possible.

Mr. Chairman, thank you for the opportunity to appear before you today. I would be happy to try to answer any questions you might have.

STATEMENT OF STANLEY H. HACKETT,
HENKEL & LAMON, P.C., ATLANTA, GEORGIA
ON BEHALF OF COLONIAL LIFE AND ACCIDENT
INSURANCE COMPANY, COLUMBIA, SOUTH CAROLINA
BEFORE THE SOCIAL SECURITY SUBCOMMITTEE
OF THE SENATE FINANCE COMMITTEE
REGARDING PROPOSALS TO AMEND THE MONTHLY MEASURE
OF RETIREMENT UNDER THE SOCIAL SECURITY ACT'S
EARNINGS LIMITATION.
April 21, 1980

SUMMARY OF PRINCIPAL POINTS

1. In the Social Security Amendments of 1977, the Congress eliminated the monthly retirement test and replaced it with an annual earnings test. The intention of the Congress was to prevent persons who actually work part of the year from receiving social security benefits during months when they are not working.

2. Adoption of the annual earnings test has resulted in an unintended reduction of benefits received by self-employed insurance agents and others who are completely retired and no longer working, but who are receiving payments for work performed prior to retirement.

3. In the Fall of 1978, the Senate passed legislation which would correct the problem for life insurance agents and others. Time did not permit the House of Representatives to act also, and the legislation was not enacted. In December of 1979, the House of Representatives passed legislation which would correct the problem for all self-employed individuals.

4. The legislation which passed the House (H.R. 5295) is remedial and is designed to correct a situation which the Congress did not intend to create. The legislation should receive the prompt and favorable consideration of the Senate.

STATEMENT OF STANLEY H. HACKETT,
HENKEL & LAMON, P.C., ATLANTA, GEORGIA
ON BEHALF OF COLONIAL LIFE AND ACCIDENT
INSURANCE COMPANY, COLUMBIA, SOUTH CAROLINA
BEFORE THE SOCIAL SECURITY SUBCOMMITTEE
OF THE SENATE FINANCE COMMITTEE
REGARDING PROPOSALS TO AMEND THE MONTHLY MEASURE
OF RETIREMENT UNDER THE SOCIAL SECURITY ACT'S
EARNINGS LIMITATION.
April 21, 1980.

Mr. Chairman and Members of the Committee:

I am Stanley H. Hackett of the law firm of Henkel & Lamon, P.C. of Atlanta, Georgia and Washington, D.C. I am a resident of Atlanta, Georgia. I am appearing today in my capacity as attorney for Colonial Life and Accident Insurance Company of Columbia, South Carolina. I appreciate this opportunity to testify and I commend and thank this Subcommittee and its Chairman for conducting this hearing today on the very important issues involved. My oral statement will be very brief, but I request that my written statement be incorporated in full into the record of these proceedings.

Colonial Life and Accident Insurance Company (Colonial or the Company) is a South Carolina corporation with its home office located in Columbia, South Carolina. Colonial has been engaged in the life, accident and health insurance business for approximately forty years and its insurance products are sold in most of the fifty states.

Colonial's products are sold by some 2,000 independent sales representatives under a distribution system which is relatively common in the insurance industry. Some of the representatives are "agents" and primarily sell products

developed by Colonial. Other representatives are "brokers" and sell products developed by other companies. Still other representatives have supervisory functions over agents in addition to their own sales functions. All of the representatives are compensated by commissions and all are self-employed.

For sound business reasons, Colonial utilizes self-employed representatives as opposed to employees to market its products. Colonial has concluded, through years of experience, that insurance sales personnel work best when they have freedom to operate with independence and when their activities are motivated by incentive as opposed to directive. In Colonial's view, individual initiative and individual responsibility are primary determinants of an effective sales force. The Company is proud of the independent representatives associated with it, and the representatives are proud of their independence.

The commission structure utilized by Colonial is similar to that utilized by many insurance companies in that its representatives receive both first year commissions (on the initial sale of a policy) and renewal commissions (as subsequent premiums are paid and the policy remains in force). The representatives affiliated with Colonial rely heavily on renewal commissions received after retirement from prior sales of life, accident or health insurance, plus social security, to provide their retirement income. Colonial believes that most insurance sales representatives, whether employed or self-employed, would similarly rely on post-retirement renewal commissions to provide a significant portion of their retirement income.

Prior to enactment of the 1977 Social Security Amendments, retired insurance agents were, in large measure, treated essentially the same with respect to renewal commissions received after retirement, regardless of whether they had been employed or self-employed. Basically, the Social Security Act provided, through the "retirement test", that social security benefits could be reduced or eliminated for any retired beneficiary who earned more than a certain amount of money in any given year. This amount was known as the "annual exempt amount". The retirement test, however, contained an exception known as the "monthly measure" or "monthly exception".

In the case of employees, the monthly test was stated essentially in terms of dollars. It specified that if, in any given month, new earnings were not in excess of 1/12 of the annual exempt amount, then social security benefits would still be paid in that month even though total new earnings for the year exceeded the annual exempt amount.

For self-employed persons, the monthly test was stated essentially in terms of services rendered. This test, the "substantial services test", essentially provided that whenever a self-employed person had income from self-employment in any year, which exceeded the annual exempt amount, then social security benefits would still be payable in any month in which substantial services were not rendered. Substantial service was measured generally by the number of hours worked rather than income produced. Since insurance agents generally do not continue to perform substantial services after retirement,

renewal commissions could be received without reduction of social security benefits.

A floor amendment to the 1977 Social Security Amendments removed the monthly exceptions for employees and self-employed persons effective January 1, 1978.

Generally, repeal of the monthly measure test means that a retired person is limited in the amount of new income which he or she can earn on an annual basis after becoming eligible and filing for social security benefits. If more than the permitted amount of new income is received, then social security benefits will be reduced. However, repeal of the monthly measure test has had a very anomalous and detrimental impact on self-employed insurance agents as opposed to employee-insurance agents.

Employee-agents count renewal commissions as income earned at the time the initial sale of insurance is made and, after retirement, an employee-agent may receive renewal commissions without effecting his or her social security benefits since these renewal commissions are not classified as current earnings when received. However, renewal commissions received by retired self-employed insurance agents are considered as current income when received. Accordingly, insurance agents with very similar professional backgrounds and career productivity may be treated differently with respect to receipt of social security benefits after retirement, based solely on the fact that one was formerly self-employed and the other was formerly an employee.

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Mr. Chairman, at the present time, the average full-time representative associated with Colonial will be entitled to receive approximately $1,000 per month in renewal commissions on retirement. Given that the average retired worker receives a monthly social security retirement benefit of $288,* this is enough to eliminate all social security retirement benefits for Colonial's average representative until age 72, when the earnings test is no longer applicable.** Colonial has some representatives who retired a few years ago and adjusted to a life-style based on renewal commissions plus social security. In 1978, their lives were suddenly disrupted by the loss of all or part of their social security benefits. These representatives are suffering. Colonial has other representatives who have reached retirement age and would like to retire, but cannot, since they simply cannot afford to retire without the social security benefits to which they are entitled. These representatives are suffering. All representatives associated with Colonial ultimately will face the problem if the unintended result of the 1977 change in the law is not corrected.

I would like to emphasize that the problems caused by repeal of the monthly test are not limited to self-employed insurance agents. All self-employed individuals potentially have the problem to the extent that they receive income after retirement based on work performed prior to retirement.

* As of May, 1979. Statement of Stanford C. Ross, Commissioner of Social Security, submitted to Hearing before U.S. House Ways & Means Subcommittee on Social Security (July 23, 1979).

** Age 70, beginning in 1982.

On August 23, 1978, in a statement on the Senate Floor, Senator Russell Long, Chairman of the Senate Finance Committee, noted that the anomalous effect of repeal of the monthly test was "an unintended result of the 1977 Social Security Act Amendments". (See Congressional Record for August 23, 1978 at S. 14138).

Senator Long went on to state the following as the rationale behind the social security program:

> "Under the social security program, benefits are payable not on the basis of individual need as measured by an income test but as a matter of social insurance payable in relation to prior earnings upon the occurrence of specified events (disability, death, retirement, and old age). The purpose of this provision of the social security law under which benefits are reduced for earnings above a certain amount is to serve as a test of whether one of those events - retirement in old age - has, in fact, occurred.
>
> Since that provision is intended as a retirement test and not as a needs test, it is inappropriate to apply it in a manner which results in the reduction of benefits to persons who have actually completely retired but who continue to receive some of the fruits of their earlier labors."

The Senate subsequently passed legislation, jointly sponsored by Senator Long and former Senator Carl Curtis, which would have corrected the problem created by the 1977 Social Security Amendments. However, time did not permit the House to act also in 1978 and the remedial measure was not enacted.

In December of 1979, after extensive hearings, the House passed H.R. 5295 by a recorded vote of 383 to 0. This bill would resolve the problem for retired insurance agents, farmers, and other self-employed individuals in a manner similar to the

legislation which passed the Senate in 1978. H.R. 5295 also addresses certain other problems arising from the 1977 Social Security Amendments. The bill was unopposed in the Ways & Means Committee. The Report (No. 96-527) states that the bill would not result in any new budget authority or increased tax expenditures; would not have any inflationary impact on prices and costs in the national economy; and would not have any significant effect on the long-term cost of the social security program.

On December 6, 1979, Senators Strom Thurmond and Robert Dole introduced S. 2083. S. 2083 embodies one part of H.R. 5295 - that part which attempts to remedy the unintended effects of repeal of the monthly measure exception on self-employed individuals. S. 2083 thus incorporates the essence of the remedial legislation which Senators Long and Curtis sponsored and which passed the Senate in 1978.

Colonial recognizes that social security financing is a very sensitive issue at this time, and that benefit increases, as a general matter, are largely out of the question. However, Colonial strongly contends that restoring the self-employed to their intended and rightful position under the social security laws is not properly viewed as an increase in benefits. In 1977, the Congress simply did not intend to single out the retired self-employed for a reduction in social security benefits. These citizens paid for their benefits while working and are entitled to them now. The Senate tried to correct this wrong in 1978 and the House tried to correct this wrong in 1979. In 1980, it is critical that the Senate act again to insure that the problem is finally corrected.

On behalf of Colonial, and its sales representatives, I respectfully urge this Subcommittee to recommend H.R. 5295 (or S. 2083) for prompt and favorable consideration.

Thank you.

Senator NELSON. Our next panel will be Mr. William C. Pennick and Mr. Robert Taplick on behalf of the American Institute of Certified Public Accountants; Ruth Kobell, legislative assistant, National Farmers Union; and Charles Eichenbaum, chairman, Standing Committee on Retirement of Lawyers, American Bar Association, accompanied by James O'Hara, chairman, Subcommittee on Legislation of the Standing Committee on Retirement of Lawyers, American Bar Association.

Now, if you would identify yourselves for the reporter so that the record may be maintained accurately, starting on my left, would you identify yourselves for the reporter?

Mr. EICHENBAUM. Charles Eichenbaum, chairman of the Lawyers Retirement Committee, American Bar Association.

Mr. O'HARA. James T. O'Hara, chairman, Subcommittee on Legislation of the Standing Committee on Retirement of Lawyers of the American Bar Association.

Ms. KOBELL. I am Ruth Kobell, legislative sssistant, National Farmers Union.

Mr. PENNICK. I am William Pennick, American Institute of Certified Public Accountants.

Mr. TAPLICK. Robert Taplick, Arthur Anderson & Co. I am appearing today on behalf of the American Institute of Certified Public Accountants.

Senator NELSON. We are very pleased to have you here today. I think we are running the risk of hitting a rollcall. There is one at 5:30. There may be one before.

If it is possible for you to present your case in 15 minutes, I have one more panel after you.

We know pretty well what the issue is. If you have anything to add to that, fine. Otherwise, if you could summarize your statement, we would appreciate it.

Who will speak first?

STATEMENT OF WILLIAM C. PENICK, CPA, ON BEHALF OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Mr. PENICK. I am speaking on behalf of the American Institute of CPA's that represents 150,000 CPA's in many parts of the country. There are very few issues where we can get unanimity in our profession, but I suspect this is one of them.

We very strongly support H.R. 5295 and its Senate counterpart introduced by Senators Dole and Thurmond.

We think the changes made in 1977 that create the problem that is addressed by this legislation were clearly unintended. As Senator Goldwater said earlier, in essence it amounts to a 50-percent tax surcharge on certain portions of retirement income.

CPA's do not have the option of practicing as corporations or as employees of corporations. We have to practice as self-practitioners in a proprietorship form, or as partners. Therefore, amounts received on retirement are clearly covered by this change made in 1977.

We are not entitled to the same treatment as a retired corporate employee, for example, which we think is clearly an inequity that was not intended.

Our problem is faced by all sizes of firms, but it is a particular one for small- and medium-sized firms. There is a way around the problem for larger firms who perhaps can afford to pay off entirely the equity or debt that might stem from the firm to the retired partner, in which case this test would not apply.

But many smaller firms cannot do this. They do not have the financial resources to do it, so if anything, it creates a greater inequity for them.

I would like to comment on one point made by Commissioner Driver earlier which one of the prior speakers touched on. That was the revenue effect, if that is a good way to describe it, from this part of the proposal.

Commissioner Driver indicated that the revenue cost would be $36 million, but he did not say that that is the first-year cost. By his own figures, if you will look on page 17 of the committee's statement, the revenue cost in subsequent years is considerably smaller, ranging from $14 to $17 million.

One final point is not addressed by this legislation. A companion problem exists with respect to the imposition of the self-employment tax. In other words, not only do these retirement payments restrict and limit the amount of social security benefits, but to add insult to injury, those same payments are subject to self-employment tax.

It is a pleasure for us to present our views to you.

Senator NELSON. Thank you very much.

Mr. Taplick?

STATEMENT OF ROBERT TAPLICK, CPA, ON BEHALF OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Mr. TAPLICK. Good afternoon, Mr. Chairman.

As I said earlier, my name is Robert Taplick. I am a partner of Taplick & Co., Madison, Wis., a firm of certified public accountants. We have 6 partners in our firm and a professional staff of 30 people.

I have been with the same firm for 48 years and have been a partner in the firm for 38 years.

In the interests of time, I will summarize my prepared remarks. I would request that my prepared statement be incorporated into the official, printed transcript.

Senator NELSON. It will be printed in full in the record.

Mr. TAPLICK. I am here today to support the passage of H.R. 5295. I elected to start my retirement in May 1979 and shortly thereafter I found, to my surprise, that the social security law as amended in 1977 would deny me social security benefits in 1980 and 1981. In addition, my retirement benefits would continue to be taxed as self-employment income, even though I performed no substantial services.

I computed that the cost to me would be approximately $24,000 in after-tax dollars. I have discussed this situation with several partners of my age group and other partnerships in Madison and Milwaukee and found that they also have the same problems.

I believe that the legislation that you are working on here today will remove the inequities of the law as it is now written and place

retiring partners on an equal basis with others whose working careers have come to an end.

You have a copy of my complete statement for the record and I thank you for permitting me to appear here today.

Senator NELSON. I am very pleased to have you here today, Mr. Taplick, and we appreciate your taking the time to come.

Ruth?

STATEMENT OF RUTH E. KOBELL, LEGISLATIVE ASSISTANT, NATIONAL FARMERS UNION

Ms. KOBELL. It is a pleasure to be here today and we appreciate your interest in this subject. We have been vitally interested in the social security program over its 45-year history, although it took a while for farmers to get coverage.

We believe that 1 of the fundamental questions facing Americans is whether the character of social security will be preserved as we have known it, and as Congress intended. The social security system is the central pillar of retirement planning for farmers and the changes in the 1977 law affected them in several ways, the most obvious of which is that, as you recognize, a farmer may become eligible for social security coverage and decide to retire from farming in 1 calendar year but hold part of his production for sale at a later time.

We believe that receipts from such sales should be recognized as preretirement income and not applied against the earned income limits allowed under the annual retirement test as interpreted by the Social Security Administration.

When farmers sell such produce they remit social security tax and Federal income tax on such income. The pattern of holding production of storable commodities from the year of production to a later, more profitable time, sometimes——

Senator DOLE. They may have to hold it a long time.

Ms. KOBELL. They may have to hold it a long time, but it is a part of their investment in their whole history of earnings.

It may also provide needed additional social security contributions for farmers who, because of low farm prices, may have had years of low or nonexistent net farm income on which to pay social security thus lowering the level of social security retirement income which they do receive.

Inflation has rapidly increased the cost of farm production, which is not reflected in prices received. It is estimated that inflation has added three times as much to farmers' production costs as to the prices they receive for that production and therefore net income on which farmers pay social security tax may be less than enough to provide full social security retirement coverage.

I know that you are pressed for time and I want to cut my presentation as short as possible. We do believe that it is only equitable that the adverse effects of the 1977 amendments be corrected.

We would urge that passage of 5295, which recognizes the prior income aspects of such farm production.

There are other things that do affect farmers, farm families, and social security. We would like at some time to talk about the special effect of lack of social security coverage on farm women

who often contribute on an equal basis to farm production yet do not earn social security coverage. But we recognize that your hearing today is focused rather closely on this one issue of the retirement test and we appreciate the opportunity to present our views.

Senator NELSON. Thank you very much.

STATEMENT OF CHARLES EICHENBAUM, CHAIRMAN, STANDING COMMITTEE ON RETIREMENT OF LAWYERS, AMERICAN BAR ASSOCIATION, ACCOMPANIED BY JAMES O'HARA, CHAIRMAN, SUBCOMMITTEE ON LEGISLATION OF THE STANDING COMMITTEE ON RETIREMENT OF LAWYERS, AMERICAN BAR ASSOCIATION

Mr. EICHENBAUM. Mr. Chairman, Senator Dole, we appreciate the opportunity to be present this afternoon. We are here at the request of the president of the American Bar Association to urge the enactment of H.R. 5295 and the Senate counterpart.

Mr. James O'Hara, who has introduced himself, will indicate to you the views of our association.

Mr. O'HARA. Thank you.

I appreciate that you are pressed for time, so I will keep my remarks brief and summarize the written statement that we have already submitted for the record.

As you all know by now, H.R. 5295 is noncontroversial. It passed the House on a 383-to-0 vote. We think one of the advantages that we strongly supported is section 3 of that bill that achieves tax parity as between the self-employed and the employees.

As the Commissioner of the Social Security Administration mentioned earlier, section 3 simply recognizes an unintended change in the 1977 amendments. What it does is it enables the self-employed retired individual to receive maximum social security benefits in part of the year following his retirement, despite the fact that after his retirement he may be receiving some distribution from his former partnership which related to prior services.

This places him on an equal footing with his counterparts in the corporate sector. Under the present law, he would be losing all or substantially all of his social security benefits despite the fact that if he were incorporated, or a lawyer down the hall who was incorporated who was in the same position would be receiving social security benefits merely because of the fact that he was a part of a corporate law firm, whereas the unincorporated, self-employed individual would be losing his benefits.

As I mentioned, section 3 would rectify this unintended change in the 1977 amendments by allowing him to demonstrate that his postretirement earnings were with respect to preretirement services that gave rise to the right to receive income.

That would enable him to be treated as having earned the income when the services were actually performed rather than under present law, being treated as receiving them only on actual receipt.

We also support section 4 of this bill that rectifies another change in allowing a 1-year grace period for people without any knowledge or basis for expecting that the law would change in 1977 had made prior grace period elections and now, with this change,

would be allowed, as with any other individual, to elect one more grace period after the effective date of this bill.

The ABA wholeheartedly supports and urges enactment of H.R. 5295 and has adopted a resolution to that effect in one of its meetings in the fall of 1979.

We thank you for your support.

Senator NELSON. Thank you very much, Mr. O'Hara, and I thank you all for taking the time to come and present your statements.

Thank you.

[The prepared statements of the preceding panel follow. Oral testimony continues on p. 210.]

SUMMARY OF PRINCIPAL POINTS

STATEMENT OF WILLIAM C. PENICK

- Social Security Act Amendments of 1977 (P.L. 95-216) contained an apparent drafting error which resulted in the unintended reduction or loss of Social Security benefits to certain categories of retirees, including CPA's.
- Inadventently, there has been a resultant reduction or loss of benefits to retired partners or sole proprietors who had retained a debt or equity interest in their firm after retirement, because of the payment of retirement benefits.
- The American Institute of Certified Public Accountants (AICPA) supports the provisions of H.R. 5295, a bill to amend Title II of the Social Security Act.
- Section 3 of H.R. 5295 would effectively remedy the unintended and adverse result, as previously described. H.R. 5295 appears to be the most comprehensive and cost effective solution to the problem.
- The AICPA continues to urge modification of Section 1402(a)(10) of the Internal Revenue Code so that a retired partner would not have to pay self-employment tax on retirement income where no services are performed but where debt or equity in the firm is maintained.

Subcommittee on Social Security
Senate Committee on Finance

April 21, 1980

STATEMENT OF WILLIAM C. PENICK

ON BEHALF OF

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

My name is William Penick and I am Managing Director or Tax Policy for Arthur Andersen & Co., an international accounting firm. I appear before you today on behalf of the Federal Tax Division of the American Institute of Certified Public Accountants. The AICPA has over 150,000 members and is the national organization representing CPA's.

We are concerned about a particular problem with the earnings test as it affects social security benefits received by self-employed individuals, including CPA's and other professionals, who operate in proprietorship or partnership form. We appreciate the chance to present our views today on this important issue and commend your subcommittee for holding these hearings.

The Institute supports H.R.5295, a bill to amend Title II of the Social Security Act. Among other matters, Section 3 of this bill would provide that income attributable to services performed, before an individual initially becomes entitled to old-age insurance benefits, shall not be taken into account (after 1977) in determining gross income for purposes of the earnings test. This amendment would mitigate the unintended and adverse results of recent changes to the Social Security law.

Specifically, amendments to the Social Security Act during 1977 eliminated the requirement, in Section 203, that substantial services be rendered in order for self-employment income to be included in the earnings test for social security benefit eligibility. The inclusion of self-employment income in earnings, even though no services are rendered, results in a reduction or loss of social security benefits. We do not believe this result was intended by Congress. The substantial hearing record amassed by the House Social Security Subcommittee and Committee on Ways and Means on this issue supports this interpretation.

Prior to the 1977 amendments, self-employment income was included in the monthly earnings test, but only if it resulted from services rendered during a particular month. When the 1977 amendments changed the monthly test to an annual test, the requirement that earnings result from services rendered was eliminated. Thus, retirement income of a former partner who provided no services were not included in the earnings test prior to the 1977 amendments but may cause the loss of benefits under the 1977 changes.

This result falls heavily on many partnerships and retired partners. For a number of reasons, professional

rganizations such as accounting firms must operate in artnership or proprietorship form since they generally annot function as corporations. It is typical for rofessional partners, such as CPA's and attorneys, fter retiring from active practice, to receive, as part f their retirement, compensation amounts for services endered before retirement. But, in order for a retired artner to receive retirement income and not lose social ecurity benefits, a partnership must pay out all of is debt and equity interests in the firm. This payout an be particularly burdensome for smaller firms, where ash may not be readily available to meet this obligation. This seems contrary to general Congressional concern bout smaller business entities.

It is also very important to note that there is no similar restriction on a retired corporate employee who can invest in, or retain, equity or debt securities of his former employer-company without loss of social security benefits. As noted earlier, accounting firms cannot operate in corporate form under the laws of most states.

It is important to recognize that the earnings test is only one element in determing whether a particular individual has, in fact, retired from the active pursuit of his or her profession. Benefits under the social

security system are payable by reason of an individual having contributed during his active years, rather than on the basis of individual need in relation to income. The fact that retired partners continue to receive payments from their firms, without rendering further substantial services, simply indicates they are receiving, not earnings, but a pension. Such a pension is for past services, similar to social security benefits, which are related to efforts prior to leaving active employment.

Section 3 of H.R.5295 would recognize this important distinction between retirement benefits and current earnings by excluding from the earnings test that remuneration which is really payment for past services.

A further point with regard to retired partners, in the context of H.R. 5295, should be clarified either in the statute or in the Committee report on the bill. From time to time, it may become necessary for a firm to consult with a retired partner because of his background and experience in dealing with certain kinds of problems or with certain clients. Such consultation may take the form of several hours or several days. The statute should be clarified so that, in a situation where there is separate remuneration or no compensation for such consulting, these services would not adversely affect

the treatment of the retired partner's pension or retirement compensation related to prior services, within the context of H.R.5295.

We would also like to bring to your attention an attendant problem. This is the inclusion of pension payments to retired partners in earnings for purposes of the self-employment tax. For several years, the AICPA has urged that Section 1402(a)(10) of the Internal Revenue Code be modified so that a retired partner would not have to pay self-employment tax on retirement income where no services are performed but where debt or equity in the firm is maintained. We believe that this problem should be addressed at some time in the context of social security issues.

This Subcommittee is faced with the problem of dealing with an apparent legislative drafting error in the 1977 amendments to the Social Security Act. This inadvertent error has created unintended and undesirable results. We urge the Congress to correct these inequities by enacting legislation which embodies the substance of H.R.5295, a bill which we believe to be the most comprehensive and cost effective remedy available.

Thank you for the opportunity to appear before you today and present our views.

National
Farmers Union

SUMMARY OF TESTIMONY
PRESENTED BY
RUTH E. KOBELL, LEGISLATIVE ASSISTANT
NATIONAL FARMERS UNION
TO THE
SUBCOMMITTEE ON SOCIAL SECURITY
SENATE COMMITTEE ON FINANCE
April 21, 1980

1. The fundamental question facing Americans today is whether the character of the Social Security program will be preserved as a social insurance benefit system payable on the basis of prior earnings upon retirement in old age, death, or disability.

2. The Social Security system is the central pillar of retirement planning for most farm families. But self-employed farming is a different kind of game than earning wages.

3. The 1977 Social Security Amendments, which converted the earnings limitation to an annual test of retirement for years after 1977 provided special problems for farmers, who may retire in one calendar year but choose to hold part of storable farm commodities for sale at a later time. This is sound financial management practice. It may provide needed additional Social Security contributions for farmers who, because of low farm prices, may not have had net farm income on which to pay Social Security tax, thus lowering the level of retirement payments.

4. Sale of pre-retirement production should be exempt from consideration as retirement income for Social Security eligibility.

5. The Senate is urged to take prompt legislative action so that H. R. 5295 similar legislation can be enacted into law during this session.

6. Legislative provision should be retroactive to the beginning of 1978 in fairness to those who have been unfairly impacted by these provisions of the 1977 amendments. The Social Security Trust Fund was expected to carry this financial responsibility prior to 1978.

Suite 600, 1012 14th Street, N.W., Washington, D.C. 20005 – Phone (202) 628-8774

National Farmers Union

TESTIMONY

PRESENTED BY

RUTH E. KOBELL
LEGISLATIVE ASSISTANT
NATIONAL FARMERS UNION

TO THE

SUBCOMMITTEE ON SOCIAL SECURITY
COMMITTEE ON FINANCE
UNITED STATES SENATE

April 21, 1980

Mr. Chairman and Members of the Committee:

I am Ruth E. Kobell, Legislative Assistant for National Farmers Union, representing a membership of 300,000 farm families who work to produce an abundant and stable supply of food and fiber in the heartland of America.

I understand your hearings today focus on pending legislation related to the Social Security retirement test, and particularly on H. R. 5295, which was passed by the House of Representatives on December 19, 1979. National Farmers Union testified in support of and worked for passage of H. R. 5295 in the House and we appreciate the opportunity to continue our support as you take up consideration of the issue in the Senate.

Our organization has been vitally interested in the Social Security program over its entire 45-year history, even though there were many difficulties and frustrations before the mechanics could be worked out for inclusion of farmers and farm workers in the program in the 1950's.

In our view, the fundamental question facing Americans today is whether the character of the Social Security program will be preserved as we have known it and as Congress has intended it.

Social Security is a social insurance benefit system payable on the basis of prior earnings upon the occurrence of retirement in old age, death, or disability.

The Social Security system is the central pillar of retirement planning for most farmers.

Suite 600, 1012 14th Street, N.W., Washington, D.C. 20005 – Phone (202) 628-9774

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Farm families rely importantly on the retirement income and the survivor or dependency benefits assured them in the Social Security program.

Farming is still one of the most dangerous occupations in our society. The disability insurance coverage under Social Security is very important to farmers, and particularly young farm families who may not have been able to earn very much Social Security coverage, particularly because of high beginning operating costs of farming and low beginning net income. Adequate disability insurance coverage for a young farmer who is disabled may well make the difference between keeping the family together and the farm operation going and the loss of the farm and the farm family.

We do, of course, have some problems as farmers with the Social Security system and these are largely associated with the fact that self-employed farming is a different kind of a game than earning wages.

There is an almost endless variety in the number of arrangements in farm ownership, and particularly in landlord-tenant relationships. It has not been simple and easy to devise the retirement test for farmers. Thus, a maze of regulations has grown over the years in the matter of "material participation" of a farm owner in operation and management of the farm after he retires.

Yet, without the "material participation" rule, many farm landlords or retirees would not have been able to qualify for Social Security coverage and to build an earnings base. So, while the rule-making may be complex and at times confusing, a definite guideline is necessary as an indication of retirement.

Our family farm members have a particular concern with the subject of your hearing today -- the issues raised by the provision in the 1977 Social Security Amendments (P. L. 95-216), which converted the Social Security earnings limitation to an annual test of retirement for years after 1977.

I am sure you recognize, Mr. Chairman, that a farmer may become eligible for Social Security coverage and decide to retire from farming in one calendar year, but hold part of his production for sale at a later time. We believe that receipts from such sales should be recognized as pre-retirement income and not applied against the earned income limits allowed under the annual retirement test as interpreted by the Social Security Administration under the present legislation.

When farmers sell such produce, they remit Social Security tax on such income. The pattern of holding production of storable commodities from year of production to a later, often more profitable time, is sound financial management practice. It may also provide needed additional Social Security contributions for farmers who, because of low farm prices, may have had years of low or nonexistent net farm income on which to pay Social Security, thus lowering the level of Social Security payments upon retirement.

Inflation has rapidly increased the cost of farm production, often not reflected in prices received. It is estimated that inflation has added three times as much to farmers' production costs as to the prices they receive for that production. Therefore, net income on which farmers pay Social Security tax may be less than enough to provide full Social Security retirement coverage.

Disposition of such commodities may be made in the year following production or sometimes several years later. We urge that in developing legislative language, farm and ranch production and marketing variations will be taken into account.

Retired farmers across the continent are struggling with the inequalities of the legislative effects of the 1977 Social Security Amendments which, as you know, were signed into law late in December 1977. Regulations were not issued to local Social Security offices until May of 1978. Efforts were made to collect Social Security payments which had been made and accepted in good faith by retirees during the first half of that year. An arrangement of forgiveness was finally worked out for that early period, but Social Security payments for the balance of the year were withheld in cases where farmers had sold production early in 1977 that exceeded the allowable earning limits. Some of them are still going through the formal request for reconsideration of such actions, with the work and expense of appearances at hearings before an Administrative Law Judge of the Bureau of Hearings and Appeals.

Some question of budget exposure has been raised relating to the provisions which would make H.-R. 5295 retroactive to the beginning of 1978. The Social Security Trust Fund was expected to carry this financial responsibility prior to enactment of the 1977 amendments, and we believe that equity for the individuals affected require that it be retroactive.

Mr. Chairman, we fervently hope that Members of the Senate will find it possible to move this legislation ahead so that it can be enacted and signed into law before the expiration of this Congressional session. Further delay will only complicate the issues and further undermine the confidence and support which our citizens have for their Social Security program and their government.

Farm families have several other concerns about their retirement from active farming. Many of them wish to continue to live on their homestead, in the home where they raised their family and tended the land. They want and need to continue to be active in community life. We recognize that present Social Security regulations makes clear that this raises no conflict, and we hope this right will continue to be protected.

Farm families most often keep ownership in their farmland throughout their lifetimes, even though they lease it out for farming under a variety of arrangements. They hope such arrangements will provide an important part of their retirement income. They need to continue to manage that lifetime investment in land, buildings and perhaps machinery, land improvement, etc., so that it provides the best retirement income for them. This parallels the situation of a person holding stocks and bonds or real property, managing that investment for the best return. Current regulations have been developed in some detail, as we have noted, which address the issue.

Beyond the management of their property, a farm man or woman may wish to work for wages for part of the year, using their skills and experience in the occupation they know best to supplement their income and keep them in the mainstream of living. Such work would, of course, come under the earning limitations outlined and governed by law.

Farm women are under particular disadvantage regarding Social Security coverage. A great majority of them contribute almost full-time labor to the operation of the farm, but unless detailed legal arrangements are made for payment of Social Security tax in their name, they reach retirement age with no coverage of their own. If they become disabled in farming, they have no disability coverage. If they are widowed or divorced in midlife, they must start from scratch to earn coverage.

Delegates to our recent National Farmers Union convention held in Denver, Colorado, March 2-6, 1980, adopted a rather wide-ranged policy statement on Social Security which I have attached to our statement for the record.

We have also attached a brief historical resume of Farmers and Social Security Coverage. We hope these will prove useful in the study and deliberations of your Committee.

Attachment III is an excerpt from the Claims Manual of the Social Security Administration regarding Social Security Administrative Regulations on Farm Net Earnings from Self Employment.

We appreciate the opportunity to appear before you today. We will be glad to try to answer any questions.

Thank you.

ATTACHMENT I

FARMERS AND SOCIAL SECURITY COVERAGE

When President Franklin D. Roosevelt on August 14, 1935, affixed his signature to the Social Security Act, self-employed farm operators and hired farm workers were not included in the coverage.

Universal coverage had been the goal of proponents of Social Security. However, it did not prove possible to acceptably work out the details of how the Social Security tax would be levied upon persons with chronically low and irregular income, such as farm operators.

National Farmers Union repeatedly sought, during the beginning years of the Social Security program, to have the benefits of the program extended to all farm families.

In December 1936, Farmers Union called for action "to give the Nation's farmers equality of access to the new Social Security program."

The original act provided for Social Security benefits to qualifying retired wage earners. In 1939, the law was broadened to provide benefits to survivors and dependents of covered workers.

In each subsequent Congress, Farmers Union urged liberalization of the program and inclusion of farmers and farm workers. In 1949, President Harry S. Truman recommended universal coverage.

Public Law 81-734, approved in 1950, brought some additional workers under coverage, extended coverage to some self-employed persons, and included some regularly employed farm workers under coverage. However, to the disappointment of Farmers Union, the law did not bring farm operators into the program.

The next strong effort was made in 1954, when President Dwight D. Eisenhower proposed broadening and improvement of the program.

James G. Patton, president of National Farmers Union, testifying before a House committee in April and a Senate committee in July, stressed that "the aged in agriculture face even greater problems of insecurity than aged in other occupations." Patton's statement also urged universal coverage for hired farm workers, regardless of wages earned or days worked.

Attachment I (Continued)

Public Law 83-761, approved in August 1954, brought an estimated 3.6 million farm operators and an additional 2.1 million hired farm workers into the program. The provisions for farm operators were favored by the Farmers Union and the National Grange, but opposed by two other agricultural organizations which preferred a voluntary system for farmers.

Recognizing the erratic nature of farm income and the small annual earnings, P. L. 83-761 brought under coverage self-employed farmers with annual net earnings of $400 or more. Because this earnings level was so low, farmers were given an option of declaring one-half of their gross income, up to $1,800, as their income for Social Security tax purposes. In effect, this gave these farmers the option of paying a higher tax rate than required by their income level in order to develop a better earnings base.

P. L. 83-761 extended Social Security coverage to all hired farm workers who earned as much as $100 in wages from one employer in a year's time.

President Patton, testifying before the Senate Finance committee in February 1956, urged adoption of the omnibus bill which was later to become P. L. 84-880. This law permitted a farm land owner, renting his land to a tenant, to be classified as a self-employed farm operator (and therefore eligible for Social Security) provided that he materially participated in the management of the farm.

Currently, the law provides that self-employed farmers whose gross annual earnings from farming are under $2,400 may report two-thirds of their gross earnings (instead of net earnings) for Social Security purposes. Rent received from a tenant or share farmer count if the land owner materially participated in the production and management.

Earnings of hired farm workers count towards Social Security if the employee receives $150 or more in cash wages for the year and works for 20 or more days of the year for cash pay.

Public Law 95-216, approved in December 1977, eliminated the so-called monthly earnings test (except for the first year of retirement), effective in 1978.

This has meant some complications for farmers who retired in one particular year, but held over the marketing of some crops or livestock into a later calendar year. Such a sale might be large enough to put a retiree over the exempt amount for the year, regardless of lack of earned income the remainder of the year.

ATTACHMENT II

EXCERPT FROM

NATIONAL FARMERS UNION 1980 POLICY STATEMENT

Adopted by Delegates to the 78th Annual Convention
Denver, Colorado
March 2-6, 1980

- - -

Social Security

Social Security has become an increasingly important part of retirement and estate planning for farm families since coverage was extended to farmers and other self-employed individuals some 24 years ago. They have recognized it as an entitlement program to which they have contributed and should be assured that the retirement, survivor, and disability eligibility for them and their families is not threatened.

Farmers must continue to be assured the right to retire on their farmstead, lease their farms under conventional arrangements to realize retirement income on a lifetime of investment of labor and management, and continue the right to work and earn supplemental income under the regulations of Social Security legislation.

Congress and the Administration should be very careful to preserve the Social Security system so that the American people will have confidence that it will continue to provide the benefits and protection which they expected when they paid their taxes into the system. Benefit cuts should be carefully considered and rarely made, especially those which would affect those most in need of protection.

1. Women and Social Security

Recognition should be given to the contribution which women partners make to the operation and management of a family farm. Under present law, women who are partners in the operation of a family farm are not covered for disability insurance or survivor benefits unless husband and wife have paid Social Security taxes for both as partners. Women on farms are often engaged in the operation of dangerous equipment and are as apt to be disabled as are men.

We urge the Social Security Administration to conduct a survey to determine how many women on farms are not covered under Social Security. We also urge the Social Security Administration and the National Farmers Union to disseminate information to farm operators about the way in which women farmers may be covered under Social Security.

ATTACHMENT II (Continued)

Excerpt from National Farmers Union 1980 Policy Statement
Page 2

1. Women and Social Security (Continued)

Social Security should be revised to provide fair and equal treatment for women workers, and to protect widows who are not eligible for benefits and who do not have marketable skills, to assure that women who wish to remain at home with a young family are not penalized for doing so and to assure that divorced women are eligible for benefits.

2. Retired and Disabled

Minimum Social Security benefits for retired and disabled persons are now exceedingly low in relation to the high cost of living. We urge that minimum benefits be increased.

3. Social Security Financing

We oppose the use of a value-added tax to finance any part of the Social Security system and we support the use of general revenue funds to cover shortages in the trust funds or to increase benefits or revenues in the years ahead.

The Social Security trust fund should be compensated out of general revenues for benefits paid out over the years to recipients who have been "blanketed in" for full coverage without having contributed throughout their working lifetimes.

We oppose the proposal to tax Social Security benefits as income.

4. Medicare

We urge that a Comprehensive National Health Insurance Program be established and that Medicare be brought under such a program.

5. Government Employees

We urge that members of Congress and all government employees be brought into the Social Security system.

Excerpt from Claims Manual
Social Security Administration
Chapter 15-Self Employment

ATTACHMENT III

SOCIAL SECURITY ADMINISTRATIVE REGULATIONS
ON FARM NET EARNINGS FROM SELF-EMPLOYMENT

1550. A farm owner may enter into a written or oral arrangement whereby he agrees to rent the land to a tenant who is to conduct the farming operations for a definite period of time for cash, a share of the crops, or both. The tenant acquires dominion over the land and has control over the conduct of the farming enterprise. The tenant may furnish the supplies and equipment and his work-power, such as mules and tractors.

Each of the following elements tends to establish the existence of a landlord-tenant relationship:

(1) Right to possession of the land;
(2) Right to use the land for his own purposes;
(3) Right to use and possession for a definite period of time;
(4) Obligation to pay rent (in cash or crops);
(5) Right to sublease;
(6) Right of entry by the landowner is limited to his right to protect and maintain his property.

Contractual stipulations which define the owner's right of entry on the premises to prevent waste, make repairs, etc., or which give him a voice in formulating the farm plan and requiring good husbandry are not inconsistent with the existence of a landlord-tenant relationship. These stipulations, and the sharing of the cost of seed, fertilizer, pesticides and other expenses incurred primarily to maintain the fertility of the land and increasing the crop yield, as well as costs of repairs of buildings, fences, etc., are more nearly related to protection and enhancement of the owner's investment than they are to day-to-day management and operation of the farm.

Where a landlord-tenant relationship exists, the farm owner is receiving rentals from real estate which are excluded from net earnings from self-employment unless he materially participates in the production or management of the production of the farm commodities.

1551. Rental income froma farm derived in a taxable year after 1955 is includable in net earnings from self-employment if the rental arrangement provides that the owner or tenant shall materially participate and he does materially particpate in the production or in the management of the production of the agricultural or horticultural

Attachment III Contd.

commodities on his land. This provision applies to all type of farm rental arrangements including cash rent, standing rent (e.g., a stipulated number of bushels of corn per acre), share rental, and share-farming arrangements.

1551.2. For rental income to be included in net earnings from self-employment, it must be derived under an arrangement (agreement or understanding) which contemplates that the landlord will materially participate. Where a written agreement specifically provides for the landlord's participation, this requirement of the law is met. (In the absence of a specific provision in the witten agreement, rules are provided for determining if an understanding exists.)

1551.3. What Constitutes Material Participation. The legislative history of the material participation provision clearly indicates that it was intended to include under social security coverage those farm owners, who pursuant to an agreement, either engage to a material degree in physical work relating to farming activities or participate to a material degree in the management of the farm. Special emphasis was given to the importance in this regard of the farm owner's advice, consultation and inspection of the activities related to production. The furnishing of equipment and the payment of expenses of production also were stated to be indicative of participation.

Where any of these tests is met, the landlord is materially participating:

Test No. 1---Where at least two of the following elements (including at least one nonfinancial element) exist: periodic advice, periodic inspection, furnishing a substantial portion of machinery, equipment and livestock; and assuming responsibility for a substantial portion of production expenses.

Test No. 2---Making management decisions which may be expected to significantly affect or contribute to the success of the enterprise.

Test No. 3---Performing physical work in the production or management of the production of the commodities raised.

Test No. 4---Doing things which, when considered in their total effect, show a material involvement in activities related to crop production. Any activity of the landlord, or assumption of financial responsibility by him, is counted if it is reasonably related to the production of a crop.

AMERICAN BAR ASSOCIATION

GOVERNMENTAL RELATIONS OFFICE • 1800 M STREET, N.W. • WASHINGTON, D.C. 20036 • (202) 331-2200

STATEMENT OF

E. CHARLES EICHENBAUM, CHAIRMAN
STANDING COMMITTEE ON RETIREMENT OF LAWYERS

and

JAMES T. O'HARA, CHAIRMAN
SUBCOMMITTEE ON LEGISLATION
STANDING COMMITTEE ON RETIREMENT OF LAWYERS

on behalf of the

AMERICAN BAR ASSOCIATION

before the

SUBCOMMITTEE ON SOCIAL SECURITY
COMMITTEE ON FINANCE

UNITES STATES SENATE

concerning

H.R.5295,
AMENDMENTS TO TITLE II OF THE
SOCIAL SECURITY ACT/SOCIAL SECURITY EARNINGS TEST

April 21, 1980

SUMMARY

The passage of H.R. 5295 would rectify two major problems presented by the 1977 Amendments to the Social Security Act by:

(1) Providing that income attributable to services performed before retirement may not be taken into account for purposes of applying the annual earnings limitation; and

(2) Making it clear that every Social Security beneficiary is entitled to apply the monthly earnings test in the first year after 1977, in which he or she has at least one non-work month.

Currently, because of certain amendments to the Social Security Act passed in 1977, income received after retirement by the self-employed from work performed in years prior to retirement is treated under the earnings test as income in the year received--with the result that many retired self-employed professionals are disqualified from old age insurance benefits despite the fact they render no substantial services after retirement. Retired employees, on the other hand, do not face the same treatment; if they can establish that wages were earned in a different period than received, the earnings are counted for the period earned. This discrepancy between the treatment of retired employees and the retired self-employed is inequitable and must be eliminated.

Further, it should be provided that the monthly earnings test be applicable in the first year following 1977 in which a "non-work" month occurs, to provide equitable treatment of beneficiaries who used the monthly earnings test in a year prior to 1978 and thereby, without notice of future detriment, were precluded by the 1977 amendments from using the test again.

H.R. 5295 rectifies both of these inequities and should be enacted.

Mr. Chairman and members of the Subcommittee:

We appreciate the opportunity to present this testimony to you on behalf of the American Bar Association. We are E. Charles Eichenbaum, Chairman of the Standing Committee on Retirement of Lawyers, and James T. O'Hara, Chairman of the Subcommittee on Legislation of the Standing Committee on Retirement of Lawyers. We are here at the request of the President of the American Bar Association, Leonard S. Janofsky, to urge the enactment of H.R. 5295. This bill, which passed the House by a vote of 383 to 0, provides for equal treatment of both the employed and the self-employed in determining eligibility for Social Security benefits under the earnings test.

An earnings test, whereby old age insurance benefits are lost to the extent of personal services earnings attributable to the continuation of work after age 65, at least until age 72, has been a feature of the Social Security program since its inception and is, in theory, unobjectionable. This test exists because the Social Security system is an insurance or "earnings replacement" program; if an individual continues to work after age 65 and realizes personal services earnings then no earnings need be replaced and insurance benefits are unnecessary. Income after age 65 not attributable to personal services actually performed after age 65, such as income from interest, dividends, or pension plans, however, is not included in the earnings test and thus does not result in a loss of benefits.

In its application, however, the earnings test can become quite objectionable. It is common, among professional firms, for retired persons such as lawyers, doctors, or accountants to receive, following retirement, payments of income for services which have been rendered in years prior to retirement. These sums may represent normal fees paid late, contingency fees, returns of capital, or some form of retirement payment. Since many professional firms utilize the cash method of accounting, the receipt of these funds after retirement constitutes self-employment income when they are received. The ABA believes that the receipt of income under these circumstances should not cause a reduction in the Social Security benefits of the retired individual.

Until 1978 it did not. Before the enactment of the Social Security Amendments of 1977, Public Law 95-216, a retired beneficiary could receive full benefits for every month in which he did not render "substantial services", even if he received payments for work done in prior years (usually in the nature of retirement payments) which brought his earnings over the annual exempt amount. This method of determining whether earnings disqualified the retiree from receiving old age benefits was known as the monthly earnings test. As part of the 1977 Amendments, however, Congress eliminated the monthly earnings test and required that only the annual earnings test be used in determining whether benefits are lost. Under the annual earnings test, a person may earn annual amounts up to a specified level without loss of benefits. If a person earns more than the annual exempt

amount, one dollar in benefits is withheld for each two dollars of earnings above that amount, regardless of the number of hours the retiree actually works in any given period. Because income received after retirement by the self-employed for work performed in years before retirement is now treated as income in the year received, rather than the year earned for purposes of the earnings test, the application of the annual earnings test results in the loss of some or all of self-employed lawyers', accountants' and others' Social Security benefits when the retiree receives payments attributable to work performed in prior years.

This treatment of the self-employed professional stands in sharp contrast to the way the law treats retired professional or non-professional employees. Under current law, if retired employees can establish that wages were earned in a different period than actually received, the earnings are counted for the period earned, not the period received, for purposes of the earnings test. Payments made to a lawyer who is an employee of a professional corporation for past services, then, will not disqualify the lawyer from enjoying Social Security benefits while the same sort of payments made to a lawyer who is a sole practitioner or a member of a partnership may. Clearly this is a case of unfair discrimination against the self-employed.

H.R. 5295 passed by the House and now before this subcommittee would eliminate this discriminatory effect for all self-employed individuals by excluding from gross income, for purposes of the earnings test, any income that the individual can show is attributable to services performed before the

individual became entitled to old-age insurance benefits. It is laudable that H.R. 5295 treats all self-employed persons with equality and grants no special benefits to particular interests. All self-employed individuals, from insurance agents receiving renewal commissions after retirement to attorneys receiving either a return of capital or income based on fees earned prior to retirement, under H.R. 5295, would not be forced to apply such income to the annual earnings test, provided such income could be traced to pre-retirement services. Such a change in the existing law will constitute at least a small step in eliminating the discriminatory treatment of the self-employed.

Aside from the simple equity considerations inherent in the elimination of such discrimination against the self-employed, the ABA believes that it is important generally to reduce the overwhelmingly tax-generated motivations for choosing a form of business organization for lawyers, doctors, and other professionals. While the discrimination between the treatment of corporate employees and the self-employed in the pension plan area (an item of discrimination which, we hope, the Senate Finance Committee may soon rectify) may be more significant than the discrimination addressed by H.R. 5295, it is possible that either may serve as one of the reasons for choosing a form of business organization, and that choice will have myriad ancillary impacts on the professional, his colleagues, and the community they serve.

While these days, of course, it is important to carefully scrutinize the revenue impact of all tax measures, the revenue effect of this self-employment "deferred income" aspect of H.R. 5295, estimated to range (were it effective January 1, 1980) from a loss of $67,000,000 in fiscal 1980 to $33,000,000 in fiscal 1981, must take into account that suffering the discriminatory impact is, to some extent, elective. The only reason that the predicted revenue loss has not occurred yet is because many lawyers and other professionals have, for a variety of reasons, failed to take advantage of the existing laws by incorporating. Clearly, the possibility of revenue loss cannot be a justification for inequitable treatment when the potential for such a revenue loss is already built into the system--to be triggered by a change in the form in which professionals do business--when at the same time the government is seeking to neutralize the effect that the tax code has on the choice of business organization. For these reasons, the ABA wholeheartedly supports H.R. 5295's provisions excluding deferred income attributable to past services from the earnings test.

Another but still significant problem created by the 1977 Amendments, and rectified by H.R. 5295, was the effective elimination of a so-called "grace year" for any Social Security beneficiary using the monthly earnings test prior to 1978.

Under prior law, and also, for those beneficiaries who have never used the monthly earnings test, under the present statutes, persons who retire in the middle of the year are

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permitted to receive full benefits for the remainder of the year regardless of the amount of their earnings before retirement. Under Social Security Administration's reading of the 1977 Amendments, however, beneficiaries who may have been semi-retired and used the monthly earnings test in a year prior to 1978, the year P.L.95-216 went into effect, were precluded from using the test in 1978 or later and thus were denied a grace year.

H.R. 5295 corrects this problem by making it clear that each Social Security beneficiary is entitled to apply the monthly earnings test in the first year after 1977 in which he has at least one "non-work" month. This eliminates the unfortunate effect of denying a grace period to those beneficiaries who, well before the possibility of the enactment of the 1977 Amendments was real, unknowingly disqualified themselves from ever enjoying a full grace year by merely taking advantage of the law in effect at the time.

It has long been the position of the American Bar Association that Congress should eliminate all discrimination in the Internal Revenue Code against the self-employed with respect to qualified benefit plans and all employee benefits.

In respect to Social Security benefits, the American Bar Association is firmly committed to the objective which is embodied in the following Resolution of the Association adopted in October 1979:

RESOLVED, that the American Bar Association supports the enactment of legislation that amends Title II of the Social Security Act to: 1) provide that income attributable to services performed before initial benefit eligibility by an individual entitled to old-age insurance benefits may not be taken into account in determining his or her net earnings from self-employment for purposes of the earnings test; and 2) make it clear that every beneficiary is entitled to apply the monthly earnings test for at least one year after 1977.

For these reasons, we strongly urge the enactment of H.R. 5295.

HOUGHTON, TAPLICK & CO.
CERTIFIED PUBLIC ACCOUNTANTS
119 MONONA AVENUE - SUITE 707
MADISON, WISCONSIN 53703
TELEPHONE 608 257-0675

STATEMENT OF ROBERT W. TAPLICK

PARTNER, HOUGHTON, TAPLICK & CO.

PRESENTED TO

SUBCOMMITTEE ON SOCIAL SECURITY

SENATE FINANCE COMMITTEE

APRIL 21, 1980

My name is Robert W. Taplick. I am a partner of Houghton, Taplick & Co. of Madison, Wisconsin. My firm is a local firm of certified public accountants. I have been in the public accounting practice with the same firm for 48 years and a partner in the firm for 38 years. There have been three name changes in that period. I made an election to start my retirement and take my retirement compensation in May, 1979.

I am here today to support the passage of H.R. 5295. This bill to correct certain unintended consequences of the 1977 Social Security Act amendments should be passed to correct the inequities which were created by the 1977 amendments.

The inclusion of retirement payments from partnerships as self-employment income even though received in a year when no substantial services are performed is particularly discriminatory against the professions of accounting, medicine and law because until the very recent years these professions were usually practiced in partnership groups rather than as corporations. It was considered unethical to practice behind the corporate shield of limited liability from negligence or malpractice. Although the passage of service corporation legislation in most states now permits practice in an incorporated group, most accounting practices are still conducted in partnership form.

As a part of most partnership agreements, there is usually some provision for retirement payments as a form of deferred compensation for services which have been rendered before retirement and are paid for some retirement period even though no further services are rendered.

It seems to me most inequitable and discriminatory that a partner who retires and performs no further services should have his retirement payments considered as self-employment income which causes the reduction of his Social Security benefits and are, in addition, subject to additional Social Security taxes.

At the same time, an employee of a corporation may retire under identical circumstances and his retirement benefits are not considered self-employment income and do not cause a reduction in his Social Security benefits nor are the retirement benefits subject to further Social Security taxes.

It is particularly ironic to me that those partnerships who have taken advantage of the new service corporation laws to incorporate, usually for tax savings or tax shelter reasons such as group health insurance plans, group life insurance plans, qualified pension plans or qualified profit sharing plans, should also find that they may continue unqualified deferred compensation plans with no problems even though these Social Security benefit problems were not even considered when the partnerships incorporated.

I believe that H.R. 5295 will remove the inequities of the law as it is now written and place retiring partners on an equal basis with others whose working careers have come to an end.

Senator NELSON. Our final panel will be: James Hacking, American Association of Retired Persons, National Retired Teachers Association, accompanied by Harold Baird and Mr. David Foerster, Government Relations Analyst, National Education Association.

We are pleased to have you come present the case today.

With whom do we start?

STATEMENT OF JAMES HACKING, AMERICAN ASSOCIATION OF RETIRED PERSONS AND NATIONAL RETIRED TEACHERS ASSOCIATION

Mr. HACKING. I would like to start, Mr. Chairman, if I may. I am Jim Hacking, assistant legislative council for the NRTA and the AARP. With over 12.5 million members, these organizations are, by far, the largest organizations representing the interests of the elderly in this country today.

I am accompanied by a member of AARP, Mr. Harold Baird. Mr. Baird counts himself among the class of persons who were adversely affected by the manner in which the monthly aspect of the earnings test was eliminated by the 1977 amendments.

Mr. Baird also happens to be a constituent of yours, from Eau Claire, Wis.

With your permission, Mr. Chairman, I would like to file our organizations statement for the record. That statement covers the general issue of the social security earnings test in the context of a restructuring of social security that our associations would like to see carried out.

That statement also includes, in some detail, our position on the manner in which the monthly aspect of the earnings test was eliminated and on the remedies to repair the damage done thereby that are contained in the House-passed bill, H.R. 5295.

So, with your permission, I would yield the balance of our organization's time to Mr. Baird.

Senator NELSON. Mr. Baird?

STATEMENT OF HAROLD BAIRD, EAU CLAIRE, WIS.

Mr. BAIRD. Thank you, Mr. Chairman and Senator Dole. I am Harold Baird, age 71 and recently retired as a faculty member of the School of Business of the University of Wisconsin at Eau Claire, and I am residing in Eau Claire and, as others, I appreciate the opportunity to appear before you today.

This is in connection with a relatively minor change in the social security benefit provisions which has produced financial losses to me far beyond the monthly income benefits promised, but later denied, by the Social Security Administration.

I will try to be as brief as possible. My written remarks, which you have, are devoted to five questions which I will eliminate at this particular time and get right down to the details.

When I first retired on March 31, 1974, I was presented with a copy of a DHEW publication entitled, "Your Social Security Rights and Responsibilities." Among a number of quotations bearing on the point that I am going to make are these:

"You don't have to retire completely to get social security checks." "Your checks can be stopped while you are working and

getting a regular income from work. Then, as soon as you stop working, the checks can be started again."

"* * * no matter how much you earn, you'll get a full social security check for any month you neither earn over $175 as an employee nor perform substantial services as a self-employed person."

Those are quite clearly written in the English language, but in case anybody had difficulty understanding them, there was an illustration of Mr. William Gray who worked part of the time, so much a month, and later had a part-time job of $175 a month and that ended with a quote, "since Mr. Gray did not earn more than $175 in any of the months September through December, he will receive the full benefit for each of those months."

Now, we will shift from Mr. William Gray to Mr. Harold Baird before you and I received a letter—incidentally, unsigned—from the Social Security Administration in 1978 which said, and I quote, "We can no longer pay you benefits for months in which you do not work."

Let's go back a little bit. Following my retirement in 1974, I received several offers of continued employment. They provided less income than I had in my previous occupation as an executive, which was understandable. Some involved moving my place of residence, sometimes out of Wisconsin. Some did not involve any change in residence.

One quite candidly offered a lower salary than any of the others—and I think you know something about university salaries for beginning faculty members. It had another disadvantage. I would have to move, but within the State. However, it had certain advantages.

One was an opportunity to make a contribution to the sound education of the youth of America and the second was the opportunity to have 3 months of unpaid vacation each year. I want to make it very clear that the university's offer was for 9 months of employment at 9 months of compensation, both the administration and myself being fully aware of the social security provisions that I have just quoted.

Now, I am sure that it is clear to everyone here that the decisions which we make in our business and personal lives and the obligations which we undertake are based largely on our confidence in the integrity of the promises that others have made to us. Our society and business works that way, in mutual dependence.

I mention this because one of the unexpected results of my being associated with the university was the undertaking of providing a university education for a deserving student of a foreign country, providing housing, food, partial tuition, and fees and incidental traveling expenses far beyond the amount that I would have received from social security.

The point I want to make is if I had not read and believed what was in that social security booklet handed me, I would not have been at the university. If I had not been with the university, I would not have been subject to the possibility of educating this student.

I am not complaining about this. I am talking about the integrity of promises that were made.

Now, I go to question No. 1. Did I, as a citizen who had paid social security taxes for, by then, over 40 years and was working in an atmosphere of respect for the U.S. Government, have a right to depend on a promise that was specifically given in a booklet spelling out rights and responsibilities.

Now, I go to question No. 2. It is generally agreed that the amendments to the Social Security Act made in 1977 improved the act. Opinions differ, however, on whether the removal of the monthly earnings test was intentional or inadvertent.

Now, I have in my files a letter from Mr. Nelson Cruikshank, Counsel to the President on Aging, in which he says, "Personally I am in agreement with your view with respect to the change in the retirement test. This change, I feel, was a mistake and got slipped into the 1977 amendments which, on the whole, vastly improve the social security system."

Another letter in my files, from Mr. Frank Crowley, Executive Director of the National Commission on Social Security, refers to certain unintended results of the amendments and he specifically refers to the counterproductiveness of the removal of the monthly test in cases similar to mine.

It seems to me that if the removal of the monthly earnings test was slipped in or was unintentional, then it should be easy to correct through the passage of H.R. 5295. However, there is some other information in my files. This came from an assistant to the Commissioner.

He indicated that the removal of the monthly earnings test may have been deliberate, for he mentioned that it was due to a few abuses of the social security system. He mentioned specifically teachers who were receiving a full year's compensation but were working only 9 months of the year.

This did not apply to me. I was receiving 9 months of compensation for 9 months of work.

This is the first time in my life that I have ever been accused, even inferentially, of abusing anything or anyone. So I tried to figure out that, as long as I was being penalized as an abuser, just who I was abusing and what constituted that abuse.

Obviously if I had remained retired in 1974 and had taken no offers of employment I could not have been accused of abusing the social security system. I would have been simply using it for the purpose for which it was intended: to provide retirement income after age 65 for those who were fully qualified.

So obviously then my abuse consisted of accepting part-time employment. Now, what happened there? Well, one of the things that happened was that I knowingly forfeited 9 months of social security compensation, rounding it off at $400 a month 9 months a year, for $100 a month, $3,600 a year, 2 years 1978, 1979—$7,200 that the social security did not pay me.

Another thing—I was again subject to the payment of social security taxes, otherwise unnecessary, roughly $900 in 1978, over $1,000 in 1979.

So there is $1,900 that flowed into the system that otherwise would not have flowed in matched by my employer, making a total of $3,800 in and $7,200 less coming out.

But that is not all of the abuse. I also subjected myself to higher Federal and State income taxes totaling at least $4,000 a year for the 2 years which is another $8,000 and so that brings us up to $19,000 more into the Government, or less coming out to me.

If that constitutes abuse of the social security system, Mr. Chairman, I think that we speak a different language in Washington than in Eau Claire, Wis.

Now, let's get down to question No. 4—and I will skip this. It refers to discrimination as between governmental employees and civilian employees but this is covered so beautifully in the April 21, 1980, issue of U.S. News & World Report. That is a fairly current issue today, but I will skip my remarks entirely.

But I do recommend that article for the consideration of the Senate.

So my final question is simply this: If the unilateral cancellation and revocation of this written promise to me by an official agency of the U.S. Government stands without correction, then how can any citizen taxpayer, past, present or future, place reliance on any statement or any promise that is made by the U.S. Government?

This is the thing that is of most concern to me. Obviously I have survived for the past 2 years and I have not missed too many meals. But the big thing that has happened in my case is what can I depend on that comes out from the U.S. Government?

I will grant you that sometimes integrity has a price. This is not in my written remarks, but I thought of it as I heard the testimony of the Commissioner. Sometimes integrity does require a price but, in my opinion, integrity is worth that price.

We have heard of the crisis of confidence in Government. I did not coin the phrase.

In my considered opinion, crises of confidence just do not happen. They are caused, and they are caused by broken promises.

I appreciate the opportunity to be with you and I appreciate the personal letters that I have received from many members of your committee with whom I have communicated and your courtesy extended to me today.

Thank you very much, very sincerely.

Senator NELSON. Thank you, Mr. Baird.

Too bad you still are not teaching there.

Mr. BAIRD. I am retired under the university's age-70 rule. I am carefully refraining from taking any other employment this year.

Senator NELSON. I was just going to say, I have a son who is a freshman up there. He could have used the benefit of your wisdom, if you had stayed there.

Mr. BAIRD. I have been invited to come back to teach the personal finance class in summer school this year.

Senator NELSON. That is exactly the course that he needs.

Mr. BAIRD. I have heard a number tell me that, and I would be very glad if he would join my class this summer.

Senator NELSON. I will put him in summer school if you will teach that course.

Mr. BAIRD. Thank you very much.

Senator NELSON. Thank you for coming. If we could get enough people guilty of the kind of abuse that you are, we could balance the budget very quickly.

Mr. BAIRD. I might have made that statement myself.
Senator NELSON. Thank you very much.
Mr. Foerster?

STATEMENT OF DAVID H. FOERSTER, GOVERNMENT RELATIONS ANALYST, NATIONAL EDUCATION ASSOCIATION

Mr. FOERSTER. My name is David Foerster, Mr. Chairman. We appreciate the opportunity to present a very brief statement this afternoon.

You have our complete statement. I would ask that it be inserted in the record.

Senator NELSON. It will be printed in full in the record.

Mr. FOERSTER. Thank you.

I would say that Mr. Baird is a very hard act to follow and much of what we have said in our statement reflects the concerns that he has presented to the committee this afternoon.

I would just elaborate on a couple of points very briefly.

The NEA represents 1.8 million professional educators. We believe it is important to note that the vast majority of our members are public employees. Their coverage is made possible under the law by agreements with the States and HEW. The termination of coverage for public employees is of prime concern.

What Mr. Baird referred to as a crisis of confidence is occurring within our membership and particularly within States such as Texas.

With respect to the retirement test, we want to say that NEA supported the 1977 amendments in so far as they addressed the pressing question of how to insure the future solvency of the trust funds. We accepted what we understood to be the intent of section 303, which eliminated the monthly earnings test and placed the earnings limitation on an annual basis, except for 1 grace year.

We understood that the purposes of these changes were to simplify the test, to end the differential treatment of people who had similar amounts of annual earnings with differences in their monthly work patterns after retirement, and last but not least, to effect a degree of savings to the OASI trust fund.

We mentioned the crisis of confidence. Teachers are becoming extremely disturbed and we are hearing every day from teachers who view the legislation of 1977, particularly section 303, as unduly punitive and arbitrary.

We have found that the administration of this program has been arbitrary, particularly with respect to the retrospective application of the retirement test. We had a meeting with Commissioner Wortman in 1978 to protest the interpretation of HEW of this law. We were told—these were his words—"There are some shinkickers every time we change a law." Shinkickers.

We went to the first hearings in the House on H.R. 5295 and heard Commissioner Stanford Ross say that inequity is the price we often pay for change, and we reject that argument totally.

We reject the interpretation on a retrospective basis of Public Law 95-216 by HEW and we are pleased to find that the administration has introduced legislation which Mr. Driver supported today which has to do with separating the filing for medicare from the filing for retirement benefits.

We would conclude by saying that we support the provisions of H.R. 5295, the entire bill. We are pleased that the OASDI cost estimates provided by the actuary on January 29, 1980, and those printed in the bluebook, are substantially below the original estimates when the House began the consideration of this bill.

We urge that this committee report H.R. 5295 favorably and in language concurring with the stated intent of the House.

Thank you very much, Mr. Chairman.

Senator NELSON. Thank you very much, Mr. Foerster, and we appreciate all of your taking your time to come here and present your case which I think is most meritorious. I hope we will be able to make the appropriate adjustment in the law.

Thank you.

[The prepared statements of the preceding panel follow:]

STATEMENT

of the

NATIONAL RETIRED TEACHERS ASSOCIATION

and the

AMERICAN ASSOCIATION OF RETIRED PERSONS

before the

SENATE FINANCE COMMITTEE

SUBCOMMITTEE ON SOCIAL SECURITY

on

PROPOSALS TO AMEND THE MONTHLY

MEASURE OF RETIREMENT

AND ABOLISH THE EARNINGS TEST

April 21, 1980

SUMMARY

NRTA-AARP support prompt passage of H.R. 5295 to correct major, unforeseen problems created for several categories of social security beneficiaries by the 1977 elimination of the monthly earnings limitation. Certain self-employed individuals, persons receiving child's, mother's or father's benefits and many older workers with irregular work patterns were harmed by this abrupt change in the law. Our Associations strongly believe that the remedy adopted by the Committee must be complete so that all classes of injured beneficiaries are treated equitably. No single group should be assisted at the expense of others. In addition, benefits lost by individuals due to SSA's retrospective interpretation of the 1977 change in the law must be restored. H.R. 5295 meets these objectives.

Regarding legislative proposals to eliminate the earnings test, our Associations are in agreement. We want the test abolished because we believe it is costing our society more than it is worth by discouraging older Americans from working. Instead of imposing employment barriers and disincentives for the elderly, our government should encourage them to work. Promoting work would generate additional tax revenue for the Federal Government, the social security system and for state and local governments as well. The productive capacity of our nation's older persons would also contribute to the size of our GNP.

Mr. Chairman and Members of the Social Security Subcommittee, the National Retired Teachers Association and American Association of Retired Persons appreciate the opportunity to testify this morning. You are to be commended for holding hearings soon on the House-passed bill (H.R. 5295) and other legislation to remedy problems caused by the 1977 change in the social security law which attempted to eliminate the monthly earnings test except in the first year of retirement. NRTA-AARP strongly support prompt passage of H.R. 5295. The Associations, however, recommend technical -- but nonetheless important -- changes to improve and clarify the intent of the bill.

I. BACKGROUND INFORMATION

Before 1978, social security had a monthly earnings test in effect. Individuals could receive benefits -- regardless of their yearly earnings -- for any month in which they did not perform substantial services in self-employment or earn more than one-twelfth of the annual exempt amount. These were called "Non-Service" (NS) months. The 1977 Amendments replaced the monthly test with an annual earnings test, except for the first year of retirement. Proponents cited three major reasons for backing this change:

- It would simplify the earnings test;
- It would end the different treatment for people with identical annual earnings but varying monthly work patterns after retirement; and
- It would save money.

However, remedial legislation is necessary now because the new annual earnings test has created major, unforeseen problems for several categories of beneficiaries. Persons receiving mother's and children's benefits, for example, have encountered unintended difficulties with the new provision, as have older people entitled to Medicare. Farmers, insurance agents, and others have been adversely affected by the elimination of the substantial services test for the self-employed. Thousands of people -- many who are members of our Associations -- have lost benefits because of the Administration's retrospective interpretation of the new annual test. The Social Security Administration (SSA) defined the year of retirement for application of the monthly test as the first year in which a NS month occurs. Under SSA's definition, a NS month occurring prior to passage of the 1977 legislation could trigger a beneficiary's first year of retirement and deny that beneficiary the use of the monthly test protection in his or her actual year of retirement if it occurs after 1977. Consequently, the year that the monthly earnings test is available to be used may not necessarily be the first year of actual retirement.

3.

The problems caused by the retroactive implementation of the new annual earnings test were intensified because the 1977 amendments became law on December 20, 1977 -- less than two weeks before the change became effective. SSA-was unable to provide its field offices with revised operating instructions until the legislation had been reviewed and all questions concerning implementation had been resolved. Thus, some people did not discover until late in 1978 that they were not entitled to benefits which they had already been receiving for several months.

The House Ways and Means Committee report accompanying H.R. 5295 points out, "No clear guidance can be discerned from the committee reports or floor debate on the question of prospective or retrospective application." However, the Administration opted for a retroactive application -- largely to save money -- without fully considering the equities of the situation. The net impact is that we have a classic example of a "change of the rules in the middle of the game" which defeats the reasonable and justifiable expectations of people.

We agree that the statute is written ambiguously. After carefully reviewing the legislative history though, we have concluded that the Congress did not intend the 1977 change to have a retroactive effect. Section 303(b) of the 1977 law states that the provision "shall apply only with respect to monthly benefits payable for months after

December 1977." The implication here is that the provision would take effect after December 1977, thereby making the existence of a NS month in a prior year irrelevant.

The House Ways and Means Committee report which accompanied the 1977 Amendments (Report No. 95-702(I), October 12, 1979) includes two references which would suggest that the entire provision was to become effective after December 1977. First, the report states (page 15) that the effective date of the legislation is "Taxable years after 1977." Moreover, the report says that the bill converts "the retirement test to a strictly annual test for years after the initial year of retirement." Second, the report adds (page 50):

> "This provision would assure that a beneficiary who retires after earning a substantial amount in the year of retirement would get benefits for the months in that year in which the beneficiary actually was retired."

Older teachers have been especially hard hit by the retrospective interpretation, since they typically work nine or ten months a year. Quite often, they are paid only for the months in which they actually teach; their salaries are not prorated over the calendar year. In the past, teachers age 62 or over elected early retirement and collected social security benefits during the summer months in which they had little or no earnings. Other teachers age 65 or over filed

for benefits solely to establishment entitlement to Medicare and thereby incurred NS months because of their irregular patterns. SSA district office personnel advised teachers and others similarly situated to file for receipt cash benefits during NS months. Many teachers who retire now in the middle of the year cannot receive social security benefits for the remainder of that year because of a prior NS month which occurred before 1978. In effect, they are denied their first year of retirement.

II. H.R. 5295: MONTHLY EARNINGS TEST LEGISLATION

Our Associations strongly believe that government has a duty to treat its citizens fairly. Lawmakers must be mindful of legislative changes which may have the unintended effect of "pulling the rug out" from under people who cannot reasonably be expected to change their retirement plans in order to accommodate an abrupt change in the law. Our Associations are not saying that a law can never be changed once enacted. We do believe, though, that any changes should be made so that the reasonable and justifiable expectations of existing and future beneficiaries are fully protected by lengthy transition periods in which changes can be gradually phased-in. Discussion of each of the four sections of HR 5295 follows.

A. Prospectively Applying Provision to Eliminate Monthly Earnings Test

The retroactive application of the 1977 provision had

the effect of catching many social security beneficiaries unaware and without adequate opportunity to make personal decisions to adjust to an annual earnings test.

Section 4 of H.R. 5295 would help to remedy this problem by allowing all beneficiaries to use the monthly earnings test in at least one year after 1977. In our opinion, Section 4 is the one of the most significant sections of the bill and we would oppose any efforts to delete it.

In order to assure repayment of benefits lost during the 1978-80 period by persons adversely affected by the 1977 change in the law, our Associations suggest that language be incorporated in the bill or the Committee report directing SSA to pay back benefits lost to these individuals. Report language similar to that used in the Ways and Means Committee report accompanying HR 5295 (#96-537) at page 7 could be utilized. This language follows: "As a result, people who lost social security benefits under the retrospective implementation would have their benefits restored."

If the Committee desires to make even clearer that repayment of lost benefits is intended, it could incorporate in the appropriate section of the bill the following language:

"The Secretary of Health, Education, and Welfare shall certify to the Secretary of the Treasury for payment from the Federal Old-Age and Survivors Insurance Trust Fund, and the Secretary of the Treasury shall pay from such

Fund in a lump sum, to any individual who after 1977 suffered deductions from benefits on account of work under section 203(b) of the Social Security Act in excess of the deductions which he or she would have suffered if the amendments made by this Act had been incorporated in section 303(a) of the Social Security Amendments of 1977 at the time of its enactment and who files application for payment under this subsection in such manner and form as the Secretary of Health, Education, and Welfare shall prescribe, an amount equal to such excess."

B. Permit Separate Applications for Cash Benefits and Medicare

The 1977 law also adversely affects other groups of beneficiaries such as people 65 or older who continue to work, but file an application for social security benefits solely to establish entitlement for medicare hospital insurance, even though they are ineligible for cash benefits because of the annual earnings test. If these individuals have an uneven or irregular earnings pattern (for example, teachers, seasonal workers or self-employed individuals) or suffer a brief illness which temporarily causes them to stop working for a month or more, they will involuntarily incur non-service months during a year that is not their first year of retirement. Thus, a person's so-called

"grace year" can be triggered by an isolated month of no earnings or low earnings. In some cases, this NS month may have occurred years before the 1977 provision was effective. When this person actually retires, he or she may need to wait until the following year to receive social security benefits because the monthly test is not available in the year of retirement.

The Associations support the House provision which would authorize separate applications for social security benefits for the nondisabled and for hospital insurance in order to reserve the "grace year" for the year of actual retirement. NRTA-AARP also support the House measure which would, in effect, reinstate Medicare benefits for people who have withdrawn their applications for social security and Medicare benefits in order to reserve their "grace year" for another year. Section 2(c) of H.R. 5295 seems to provide this by permitting affected individuals to apply separately for cash and Medicare benefits on a retroactive basis. We urge the Committee to include report language similar to that used in the Ways and Means Committee report that would clearly indicate that any benefits lost by this group of beneficiaries because they had been unable to make separate application for Medicare would be refunded to them.

C. Restore Monthly Earnings Test In Year Certain Benefits Terminate

Elimination of the monthly aspect has also adversely affected persons receiving child's, mother's or father's benefits. Generally, these people are likely to enter the work force in the year that their benefits end. If their earnings exceed the annual ceiling they must pay back all or a portion of their prior benefits. Frequently, these beneficiaries simply do not know what their earnings will be, or whether they will have any earnings at all later in the year. Requiring them to pay social security benefits received earlier in the year discourages them from working and often imposes a serious financial burden.

H.R. 5295 would restore the monthly earnings test for the year that child's, mother's, or father's benefits terminate. Moreover, the provision would apply retroactively to January 1978 to protect persons who lost benefits because of the 1977 amendments. NRTA-AARP urge the Subcommittee to approve this provision.

D. Exclude Incomes Attributable to Services Before Retirement

The conversion to an annual earnings test except in the first year of retirement has created serious problems for self-employed insurance agents, farmers, and partners in

professional firms. Prior to 1978, self-employed persons could receive social security benefits for any month in which they did not perform substantial services. In general, individuals are considered to engage in substantial services if they work more than 45 hours a month in self-employment.

However, many self-employed persons are losing all or part of their social security benefits now because they receive post-retirement income from pre-retirement work effort. Under present law, the proceeds from prior work are generally counted as income for social security and income tax purposes in the year of receipt. When the monthly test was in effect, these retired self-employed persons could receive their full benefits provided they did not work more than 45 hours per month in self-employment. However, the elimination of the substantial services test causes serious problems for:

° Retired self-employed insurance agents who receive renewal commissions, which, in many cases, were planned for retirement purposes.

° Farmers who receive proceeds from the sale of crops which they raised prior to their retirement.

° Retired partners -- such as lawyers and accountants -- who receive a return on their prior capital investment.

11.

H.R. 5295 would treat deferred income substantially the same for employees and the self-employed. The net impact is that income attributable to services performed before an individual first becomes entitled to social security retirement benefits would not be counted under the earnings test. The Associations urge the Subcommittee to make this provision retroactive to January 1978 -- as the House-passed bill did -- so that benefits can be paid back to persons who lost benefits resulting from the change-over from the monthly measure to the annual test.

E. Need for Complete Remedy

The Associations have also been asked to comment on several other bills to remedy specific problems caused by the 1977 change in the earnings test:

- S. 248 would exclude from the earnings test self-employment income of farmers who sell their crops in a year after they retire.
- S. 1498 and S. 2083 would exclude self-employment income attributable to pre-retirement work from the earnings test.
- S. 1554 would exempt renewal commissions of insurance salesmen from the earnings test.
- S. 2034 would exempt royalties and insurance renewal commissions attributable to pre-retirement work from the earnings test, as well as self-employment income of farmers who sell their products in a year after they retire.

Our Associations do not oppose any of these bills. We would, however, prefer to see them expanded to cover all monthly aspect problems, instead of focusing only on issues related to the self-employed.

We believe that the legislative remedy must be complete so that all classes of injured beneficiaries are treated equitably. No single group should be assisted at the expense of others. Each class of adversely affected beneficiaries has a meritorious claim which needs prompt action.

NRTA and AARP urge the Subcommittee to develop a complete remedy (similar to that provided by HR 5295) for the unforeseen and unintended effects resulting from eliminating the monthly earnings test. Equity and fair play provide compelling arguments to take this corrective action now. H.R. 5295, which received overwhelming and bipartisan support in the House, provides a reasonable and not overly costly approach to remedying the major problems created by the 1977 elimination of the monthly test. The estimated cost of H.R. 5295 has been scaled down substantially under new revised estimates by the Social Security Administration's actuaries. We ask that a recent SSA cost estimate of H.R. 5295 for fiscal years 1980 to 1985 be printed at this point in the record. SSA's actuaries also project that H.R. 5295 would have a negligible long-range cost. Our Associations urge the Subcommittee to act promptly and favorably on H.R. 5295.

III. PROPOSALS TO ABOLISH THE EARNINGS TEST

In addition, the Associations wish to commend the Subcommittee for holding hearings on three bills to abolish the earnings test completely:

° S. 1287 would repeal the so-called "retirement test" in 1982 for beneficiaries 65 years or older.

° S. 1418 would repeal the earnings limitation in 1980 for individuals 65 or older.

° S. 2208 would phase out the earnings ceilings for persons 65 to 72 years old over a six-year period by reducing the upper age limit for application of the test. Beginning in 1980, it would be reduced from 72 to 70. Thereafter, it would be reduced annually by one year until it would be completely phased out for persons 65 years old in 1985.

The Associations have a long-standing policy of favoring elimination of the retirement test for people 65 years of age. We support this position fully and vigorously now. Although we recognize that this goal may not be legislatively attainable at this time, given prevailing political and budgetary thinking in Congress and the Executive Branch, we still believe that over the long run eliminating the test will be financially beneficial to both the economy and the social security system.

Our Associations want the retirement test abolished because we believe it is costing our society more than it is worth by discouraging older Americans from working. Instead of imposing employment barriers and disincentives for the elderly, our government should encourage them to work. Promoting work would generate additional tax revenue for the Federal Government, the social security system and for state and local governments as well. The productive capacity of our nation's older persons would also contribute to the size of our GNP. The Associations strongly believe that our Nation should develop comprehensive policies to maximize job opportunities for all Americans, whether they are young, old, or middle-aged.

Social security's long-range financing problem is attributed in large part to changing demographics. The ratio of workers to beneficiaries is now more than three to one. By 2030 it is projected to be only two to one. Given this trend, we believe the earnings test will cost society even more in the future since much of the presently projected long-range deficit could be reduced by promoting employment opportunities for older persons, and reversing the trend toward early retirement.

Four major arguments are often cited by those who oppose abolition of the earnings test. The Associations welcome the opportunity to respond directly to those points.

15.

First, opponents contend that abolition would be costly to social security, which is already under severe financial strain. Recent SSA estimates place the first-year cost at $2.1 billion in additional outlays if the test is abolished for persons 65 to 70 years old in 1982. This argument, however, completely overlooks the cost to government and for our economy as a whole of retaining the test. Unfortunately, the Administration has provided no official estimate of that figure. We, however, have calculated that if 1 million older persons re-entered the labor marked on a part-time basis, the increase in gross national product would exceed SSA's $2.1 billion cost estimate -- even if these people worked at the minimum wage.

Opponents also fail to take into account the additional federal and state income tax and payroll tax revenues that would be raised from repealing the earnings test for people 65 or older.

An article -- entitled "Tax Impact from Elimination of the Retirement Test" -- in last September's Social Security Bulletin reinforces this important point. The authors, Josephine G. Gorden and Robert N. Schoeplein of SSA's Office of Research and Statistics, conclude that elimination of the retirement test for workers 65 to 69 years old would generate an extra $678.6 million in payroll taxes and $977.8 million in federal income taxes. This additional revenue -- totaling $1.656 billion -- would offset 79 percent of the $2.1 billion SSA has estimated

that it would cost to repeal the earnings test. This study provides further compelling evidence that retaining the test is costing society more in lost tax revenues and contributions to the GNP than it would cost to repeal it.

Another related study by the Urban Institute -- entitled "The Aging of America: A Portrait of the Elderly in 1990" -- reaches a similar conclusion. This study assumed certain changes in social security -- namely, a small decrease in early retirement benefits, a future increase (from 3 to 5 percent) in the delayed retirement credit, a liberalization in the earnings limit (achieved by reducing the benefit reduction rate from 50 to 40 percent) -- and a reasonably expanding economy.

Based upon these assumptions, the authors suggest that social security costs and tax rates would be lower (despite the liberalization in the earnings test) than under present law. At the same time, projected income levels of the elderly would be 12 to 38 percent higher because of their increased earnings. The authors said, "The major conclusion of this study is that it may be possible to reduce the tax burden on the working population and increase the income going to the elderly, through changes in the retirement incentive structure to delay retirement."

Second, opponents contend that repeal of the retirement test would transform social security from a social insurance to an annuity program. They maintain that social security is designed to replace lost earnings because of three contingencies: retirement in old age, death or disability.

Our Associations believe that this type of fundamental change in social security is absolutely essential in order to prevent it from being overwhelmed by obvious demographic, economic, labor force and other trends. Social security must respond to these trends and be transformed into a system that encourages and rewards work effort, especially on the part of older persons.

Third, opponents maintain that removal of the earnings test would provide a windfall for affluent professionals. However, these people constitute a tiny fraction of the total number of beneficiaries who would benefit from removal of the test. Our Associations believe that it is illogical and unfair to retain a test which penalizes low- and moderate-income older Americans simply because some well-to-do people, who typically have paid the maximum into social security throughout their working lives, would also benefit from repeal of the earnings limitation. Work may provide the only means for low- and moderate-income beneficiaries to supplement their social security.

Today, many low and moderate-income older Americans deliberately hold down their earnings or drop out of the labor market rather than suffer the harsh penalty -- a 50 percent tax on earnings above $5,000 a year -- that the present test imposes. Since these people do not actually have their social security benefits reduced, they are not counted as potential beneficiaries of eliminating the test. If they were, it would be even more apparent that low- and moderate-income older Americans are the real beneficiaries, and not a comparatively small wealthy elite.

Fourth, the retirement test is defended in some quarters as a means to promote employment for younger workers. This is shortsighted, though, because the present number of jobs in our economy is not fixed. Our economy should have sufficient elasticity to accommodate more workers. The number of jobs in our economy depends, to a large degree, on fiscal and monetary policies.

Surely a nation with a gross national product exceeding $2 trillion can manage its economy and be innovative enough to provide job opportunities for all Americans, whether they are young or old. Our nation is not so bankrupt in ideas that we cannot work to solve the employment problems of younger and older workers alike. Our economy has been able

to provide jobs for an increasing number of workers in the past, and it can do so in the future when proportionately more Americans will be older Americans. This capability was well illustrated during the past decade, when employment opportunities were created for millions of women who entered or reentered the labor force, as well as for the post World II "baby boom" generations.

Our Associations favor repeal of the earnings test because:

° It would, in fact, benefit large numbers of low- and moderate-income elderly persons by removing one of the major barriers for older Americans who want or need to work.

° The existing limitation imposes a substantial cost on taxpayers through the loss of gross national product and tax revenues -- costs which can no longer be overlooked or ignored.

We consider elimination of the test to be an essential first step toward a comprehensive restructuring of the social security benefit structure so that it strongly encourages effort. At this time, we agree with the pending legislation which eliminates the test only for persons age 65 and over. This is an appropriate first step since repeal of the test for persons under age 65 could have the perverse effect of encouraging early retirement. In this same spirit of incrementalism, we recognize that the "cost" of removing the test may necessitate a phased-out approach.

20.

One phase-out option could be to make ad hoc increases in the exempt amount beginning in 1983 for persons 65 to 70 years old. Under present law, the earnings ceilings for older social security beneficiaries -- now $5,000 a year for individuals 65 to 71 years old -- is scheduled to increase by $500 a year until it reaches $6,000 in 1982. In addition, the upper age limit for the test will be reduced from 72 to 70 in 1982. Thereafter, the exempt amount will rise proportionately in accordance with the average covered earnings under the program. Based on the most recent estimates, the exempt amount for beneficiaries 65 to 70 is projected to rise automatically after 1982 as follows:

1982	$6,480
1984	$7,080
1985	$7,800

(Source: Social Security Administration)

Under one possible option, the exempt amount could be phased out for older persons according to this plan:

1983	$7,000
1984	$8,000
1985	$9,000
1986	Eliminated for beneficiaries 65 years or older

This would minimize the "cost" impact on the system, and that impact would be postponed until 1983. During this time the Congress will have an opportunity to strengthen

the financing of the Old Age and Survivors Insurance trust fund. This phase-out approach is similar to that used in Sen. Laxalt's bill (S. 2208). However, we believe it makes better policy sense and is administratively more simple to gradually raise the ceiling rather than lower the age at which the test no longer applies.

In addition to repealing the earnings limit gradually, other changes within the social security system are needed to help reverse the elderly's declining participation in the labor force and to reduce their degree of dependency on public programs for income maintenance. Additional work incentives within social security need to be created for two reasons. First, they are needed to counter the strong work disincentive which exists in the current procedures used to update wage records of workers who delay their retirement date past age 65; and second, once the test is eliminated, added incentives will be needed to keep older persons fully working and off the social security rolls.

With regard to the first point concerning benefit computation procedures, it appears that the manner in which wage records are indexed under the new decoupled indexing procedures works to strongly disadvantage persons who delay their retirement date. The new indexing procedures resulting from the 1977 legislation can substantially reduce the

beneficial effect of continued work on the retiree's eventual benefit amount because during the process of calculating a worker's AIME, the worker's earnings records are updated (or indexed) only up to the year in which the worker reaches age 60. For work after that year, earnings records are not indexed, but used at their actual dollar value. Obviously, the longer the worker waits to retire, the more out-of-date his post-age 60 earnings records will be and the less influence those continued earnings will have on increasing his eventual benefit amount.

Regarding the second point concerning the need to provide strong incentives for older persons to work and delay their retirement date in the context of repealing the earnings test, our Associations recommend that this Committee consider a substantial increase in the delayed retirement credit -- at least to the actuarial level of approximately 7 to 8%. Under present law, individuals who elect not to receive social security benefits because they continue working beyond age 65 are entitled to a 1-percent bonus for each full year of delay between age 65 and 72. In 1977, Congress raised the delayed retirement credit to 3-percent per year for people who become 65 in 1982. We believe this 3% bonus, however, does not provide sufficient encouragement for individuals to work beyond 65, nor does it compensate the older worker for the adverse indexation procedures described above.

If Congress decides to eliminate the retirement test, this 3% credit would certainly not be large enough to cause older workers to delay filing for benefits since with repeal of the test they would be able to work and receive full benefits at the same time. We believe an actuarially-related delayed retirement credit, however, would provide a reasonably strong incentive for older persons to elect to delay receiving benefits. And raising the credit to an actuarial level in the year the test is repealed would entail relatively low costs. These costs would be far lower than they would be if the credit were raised before eliminating the test.

Therefore, to reverse the elderly's declining labor force participation and early retirement trend, our Associations recommend that two major changes be made in the social security benefit structure: elimination of the retirement test and raising of the delayed retirement credit to at least an actuarial level. These two changes should be linked together so that we can encourage more older persons to work and at the same time give them a reasonably strong incentive to delay receiving full benefits.

In the long run, work incentives through social security will benefit the system given predicted demographic trends. This incentive approach to dealing with the demographics is clearly preferable to such drastic measures as raising the

age to 68 for receipt of full benefits. And in the short run, our nation will benefit from the skills and productive capacity of older persons as well as from the additional revenue and growth in GNP their work effort will generate.

V. SUMMARY

In summary, our Associations urge the Subcommittee to report out all the provisions of H.R. 5295 promptly. Approximately 185,000 persons will benefit from enactment of the four provisions in H.R. 5295, including:

- 50,000 if the conversion to an annual earnings test except the first year of retirement is applied prospectively;
- 100,000 if the monthly measure is restored in the year benefits terminated for children, mothers and fathers.
- 20,000 if income attributable to services before retirement is not counted under the earnings test.
- 15,000 if people can make separate applications for cash benefits and medicare.

We further urge that either the bill or the Committee report be clear in directing SSA to pay back benefits to persons adversely affected by the retroactive application of the law.

We also recommend that the earnings limitation be repealed for beneficiaries age 65 to 69. This objective could be achieved gradually and should be linked to providing an actuarially-related delayed retirement credit beginning in the year the test is repealed. This combination of social security changes should encourage older persons both to continue working and to delay receipt of their full benefits.

STATEMENT

of

HAROLD W. BAIRD

before the

SENATE FINANCE COMMITTEE

SUBCOMMITTEE ON SOCIAL SECURITY

on

PROPOSALS TO AMEND THE

MONTHLY MEASURE OF RETIREMENT

April 21, 1980

Mr. Chairman, and distinguished Members of the Social Security Subcommittee:

My name is Harold W. Baird, age 71, Social Security No. 350-09-4009, recently retired as Lecturer in the School of Business, University of Wisconsin-Eau Claire, and residing in Eau Claire, Wisconsin.

I appreciate this opprtunity to appear before you today to present my personal views on the unfortunate effects of a relatively minor change in the Social Security benefit provisions which produced financial losses to me, far beyond the monthly income benefits promised, but subsequently denied, by the Social Security Administration. I shall try to be as brief as possible, and confine my remarks to five simple questions, relating to:

1. Whether a citizen who paid Social Security taxes for some 31 years prior to his first retirement, at the then-mandatory age of 65 in 1974, had a "right" to depend on a promise made to him by an official agency of the United States government in a booklet setting forth both his "rights and responsibilities".

2. Whether a relatively minor change -- the elimination of the "monthly earnings test" -- was intentional or inadvertent.

3. Whether this (or any other) Social Security taxpayer, who had fully qualified for retirement benefits under the rules in effect as of the date of his retirement, and who had meticulously complied with all of the responsibilities set forth in the government-prepared booklet, should be accused, even inferentially, of "abusing" the Social Security system through a decision to return to covered employment on a part-time basis.

4. Whether gross discrimination is, or is not, involved in the widely differing treatment accorded this tax-paying "civilian" employee, as

contrasted with official assurances of "grandfathering" of government employees who might be adversely affected by future changes in the law.

5. Whether, should the inequity to which I shall refer remain uncorrected, any Social Security taxpayer can place reliance on receiving the benefits promised -- and, if not, whether a proper caveat should not be included in all Social Security literature, so that citizens may be encouraged to provide, for themselves, guaranteed benefits.

Please permit me to be specific, based on my personal (and costly) experience.

When I retired, the first time, on March 31, 1974, I was presented with a copy of DHEW publication No. (SSA) 73-10077, entitled: "Your Social Security Rights and Responsibilities." Among a number of quotations bearing on the point at issue were:

"You don't have to retire completely to get social security checks."

"Your checks can be stopped while you are working and getting a regular income from work. Then, as soon as you stop working, the checks can be started again."

".... no matter how much you earn, you'll get a full social security check for any month you neither earn over $175 as an employee nor perform substantial services as a self-employed person." (1)

Even though the above quotations are clearly expressed, there followed on page 21 of the document the illustrated case of Mr. William Gray. Quoting:

"William Gray ... worked full time from January through August and earned $650 each month. During this period his social security checks were stopped... In August, Mr. Gray decided to stop working full time and to take a part time job which would pay only $175 a month. Since Mr. Gray did not earn more than $175 in any of the months, September through December, he will receive the full benefit for each of those months."

Now, let us shift from Mr. William Gray, whom I assume is hypothetical, to Harold Baird, appearing before you at this moment, to whom the Social Security Administration said, in 1978: "... we can no longer pay you benefits for months in which you do not work."

During the year following my retirement in 1974 I received several "feelers" and a few specific offers to rejoin the ranks of the employed. Most of these were for full time employment. The salaries mentioned were considerably lower than my former salary as an executive, which was understandable. Some would have involved changing my residence; others not. One, which involved a substantially lower salary than any of the others, and which had the added disadvantages of requiring me to move, sell my former residence, and pay a substantial capital gains tax, nevertheless had several attractive advantages. This was the offer to join the faculty of the School of Business of the University of Wisconsin-Eau Claire. In addition to the advantage of contributing to the sound education of some of America's youth, a personal advantage was to have three months of free time each summer for travel. I want to make it explicitly clear that the contract offered, and which I accepted, was for nine months of employment, at nine months of income. Faculty who teach during the "Interim" and/or Summer School courses receive additional income for those services. However, both the University Administration and I were fully aware of the Social Security rule quoted earlier, and they agreed not to request me to teach the Summer classes.

I am sure that it is clear to everyone in this chamber that in both our personal and our business or professional lives the promises we are able to make to others depend, in large part, upon the integrity of the promises others have made to us. Our modern, civilized, society depends on such confidence. I mention this because one of the unexpected results of my being associated with

a fine University was the undertaking of providing a college education -- food, housing, basic tuition and fees, and some incidental travel and other expenses of a deserving foreign student (friend of my wife) who had qualified for a partial scholarship. This would never have occurred had I not accepted the faculty position which, in turn, would never have occurred without the provision in the Social Security "Rights" booklet which I interpreted as encouraging part time employment and promising: "you'll get a full social security check for any month you neither earn over $175", etc.

Now, as to Question No. 1 -- Did I, as a citizen who had paid Social Security taxes for, by then, over forty years, and who was reared in an atmosphere of respect for the United States government, have a right to depend on the integrity of the promise to which reference was made?

Now, as to Question No. 2, it is generally agreed that the amendments to the Social Security Act, made in 1977, were generally beneficial. Opinions seem to differ, however, on whether the removal of the monthly earnings test was intentional or inadvertent. In my files is a letter from Mr. Nelson H. Cruikshank, Counsellor to the President on Aging, in which he says: "Personally, I am in agreement with your view with respect to the change in the retirement test... This change I feel was a mistake and it got slipped into the 1977 amendments, which on the whole vastly improved the social security system."

Another letter in my files, dated September 18, 1979, is from Mr. Frank Crowley, Executive Director of the National Commission on Social Security, in which he refers to "certain unintended results of the amendment", specifically referring to the counter-productiveness of the removal of the monthly earnings test in cases similar to mine.

It seems to me that if the removal of the monthly earnings test was "slipped into" the amendment, and produced "unintended" results, it should be a simple matter to correct, through passage of H. R. 5295.

Other information in my files, this from an assistant to the Commissioner, indicates that the removal of the monthly earnings test may have been deliberate, for he mentioned that it was due to a few "abuses" of the Social Security system. He specifically mentioned teachers who were receiving a full year's compensation, but were working only nine months of the year. This did not apply in my case, for as I have mentioned I received nine months of compensation, for nine months of work.

This was the first time in my life that I had been accused, even inferentially, of abusing anyone or anything, and as long as I was being punished for being an "abuser", I tried to figure out who was being abused, and to what extent. First, as I am sure all would agree, had I stayed "retired", on a full time basis, after 1974, and accepted no employment offers -- as many of my acquaintences have done -- then I certainly could not have been accused of abusing the System. I would simply have been using, not abusing, Social Security for the purpose for which it was designed, to provide a basic floor of retirement income protection after age 65 for those qualifying. My "abuse", therefore, clearly was in my decision to return to work, and on a part time basis, as I had interpreted the "Rights" booklet to encourage.

What, then, were the effects of this "abuse"? The first item was my knowingly and willingly forfeiting Social Security retirement income for the nine months of the year during which I was employed. Using rounded and approximate figures, let us assume this income to be $400 a month, for 9 months, or $3,600 in each of 1978 and 1979, for a total of $7,200 the Social Security Administration did not have to pay me.

The second item was the renewed payment of Social Security taxes, otherwise unnecessary, amounting to somewhat over $900 in 1978 and over $1,000 in 1979, for a total of over $1,900 paid into the system (and used to provide benefits for those not electing to work, and thus not abusing the system). This $1,900+ was matched by my employer (which, otherwise might have been available as income

to me), bringing the inflow into the system to over $3,800, and the total of the decreased outflow plus increased inflow to over $11,000.

Then, although not directly related to Social Security, but related to the Federal government and the State of Wisconsin were the increased personal income taxes, roughly estimated at about $4,000 a year for each of 1978 and 1979, or $8,000+, bringing the financial advantage to government to more than $19,000. For that "abuse", I was being punished by being denied the roughly $400 a month promised, but not paid, during June, July, and August of 1978 and 1979, a total of about $2,400 -- and a small fraction of the other losses (lower salary, capital gains tax, and educational expenses) incurred in dependence on the integrity of the specific promise of the United States Government, and illustrated in the case of the hypothetical Mr. William Gray.

If what I have outlined represents an "abuse" of the Social Security System, I am sorely afraid that governmental officials in Washington and at least this ex-faculty member in Wisconsin speak different languages. Hence my question No. 3: does part time work constitute an abuse of the System?

My next question, relating to discrimination, arose out of my being assigned to teach a class in "Personal Finance" at the University, one of the topics being "Social Security". Thinking that I might be considered as prejudiced, due to the personal experience related, I requested that the Public Relations representative of the local Social Security Office address my class. He cooperated beautifully, showed the Social Security motion picture, and offered to answer questions. Among the questions asked by students (with no prompting from me) were:

> "How can we be sure that, after paying Social Security taxes for 40 or 45 years, the promised benefits will actually be paid us?" and "If Social Security is so good, why is it that government employees are not covered under the Act?"

The young man's answer to the first was that my students were sure to

receive the benefits promised them, because the System was supervised by the United States Congress, and the Congress would never let them down. As to the second question, the young man stated that, in his opinion, government employees, including himself, should be covered by the Act. He stated, however, that a number of the older government employees objected because the benefits they would receive under Social Security would be less than under their present plans. He went on to add that they need have no fear about this, however, for in any change in the law which might bring reduced benefits they would doubtless be "grandfathered".

I have seen the same assurance of grandfathering given by former Commissioner, Stanford Ross, quoted in an interview in U. S. News and World Report.

This leads to my Question No. 4, as to whether the promised grandfathering of government employees, as contrasted with the retroactive application of the adverse change affecting civilians -- who were given no time to revise their plans -- does not represent gross discrimination? Even the "Retired Army Bulletin" did not publish information on the "Change in the Social Security Law", and comment on the elimination of the monthly earnings test, until its July-August, 1978, edition. Those, such as myself, who signed renewal teaching contracts terminating in May of 1979 would not have done so -- and, instead, would have retired in December of 1978 -- had reasonable notice of the change been furnished.

Now, as to my final question, No. 5: If the unilateral revocation of the written promise of an official agency of the United States government should stand, without correction, can any citizen taxpayer, past, present or future, depend on any promise, in any government publication?

We have all heard of the current "crisis of confidence" in government. In my considered opinion, crises of confidence do not just happen; they are caused by broken promises.

I greatly appreciate the thoughtful responses several members of this

Subcommittee have made to my letters relating to this subject, and they have mentioned that H. R. 5295, already passed by the House, was to be considered by this Senate Committee. I also appreciate your courtesy extended me today, and I respectfully urge unanimous approval of this legislation by your Committee, leading to its prompt passage by the full Senate.

Again, thank you, most sincerely.

nea

GOVERNMENT RELATIONS

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 833-5411

TERRY HERNDON, Executive Director

WILLARD H. McGUIRE, President
BERNIE FREITAG, Vice-President
JOHN T. McGARIGAL, Secretary-Treasurer

Summary of Statement by National Education Association, April 21, 1980

Re: HR 5295 and Related Matters

Beginning in 1978, the Social Security retirement test became an annual test only, except in the initial year of retirement. This provision resulted in two serious problems for teachers:

Previously, those who applied for benefits but planned to work part of the year were considered retired for each month they did not work. They could keep their Social Security benefits although their actual income exceeded the maximum amount the law allowed them to earn and still receive benefits. This benefit can now be denied by a changeover to the annual retirement test.

Some individuals attaining age 65 prior to 1978 filed for Medicare Part A coverage in 1977 or before. Many of these people worked under state plans which cut off group hospitalization coverage at age 65. In order to secure Medicare, these individuals filed good-faith claims, only to find that these claims triggered the initial year under the provisions of Public Law 95-216.

NEA seeks enactment of HR 5295, as passed by the House of Representatives on December 19, 1979, in order to correct inequities resulting from the implementation of Sec. 303 of PL 95-216.

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 833-4000
WILLARD H. McGUIRE, President
BERNIE FREITAG, Vice-President
JOHN T. McGARIGAL, Secretary-Treasurer
TERRY HERNDON, Executive Director

STATEMENT OF

THE

NATIONAL EDUCATION ASSOCIATION

ON

HR 5295 AND RELATED MATTERS

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

U. S. SENATE COMMITTEE ON FINANCE

APRIL 21, 1980

63-893 O - 80 - 17

Mr. Chairman and Members of the Subcommittee:

My name is David Foerster and I am a Government Relations Analyst with the National Education Association. We appreciate this opportunity to testify on legislation which is designed to correct certain problems with the social security earnings limitation that have arisen since enactment of Public Law 95-216, the Social Security Amendments of 1977.

Much has been written about the general fear across the land that when people reach retirement age, social security will have "gone broke" and the benefits individuals have counted on during their entire working careers will not be there. This concern has been expressed by many teachers, whose salaries and retirement benefits traditionally have been very low.

We believe it is important to note that because the overwhelming majority of our members are public employees, their coverage is made possible under the law through agreements between the states and HEW, and that the termination of coverage for public employees is a growing concern. We know that many teachers have lost confidence in social security because of the widely publicized fiscal problems which the 1977 amendments and subsequent legislative proposals have attempted to solve. But the erosion of confidence among teacher is excerbated by what many consider punitive legislative or administrative policies, such as those related to the retirement test, and the continued discrimination against women in the program. Some teachers are so disenchanted with the social security program that they would gladly drop their coverage if they could, and it is becoming increasingly difficult to persuade these individuals that continuation of coverage is in their best interest. We are also concerned that some public employers are seeking to terminate coverage for their employees as a device to save taxpayer dollars. The NEA Representative Assembly has adopted positive policies with respect to social

security, and in a current resolution insists on a referendum that would require a majority of affirmative votes of those employees eligible to vote before a governmental agency files notice of intent to withdraw from the program. We have sought, through publications and in meetings throughout the nation to explain what is happening in social security and to learn more about the perceptions and experiences of teachers in the retirement area. The first attachment to this statement shows the history and patterns of social security coverage for teachers. The second attachment sets forth the resolutions pertaining to social security as adopted by the Representative Assembly in 1979. These documents reflect positions that have been standing NEA policy for several years.

With respect to the retirement test, we want to say first that NEA supported the 1977 amendments insofar as they addressed the pressing question of how to ensure the future solvency of the trust funds. We accepted what we understood at the time to be the intent of Sec. 303, which eliminated the monthly earnings test and placed the earnings limitation on an annual dollar test, except for one "grace year." We understood that the purposes of this change were (a) to simplify the test; (b) to end the differential treatment of people who had similar amounts of annual earnings but differences in their monthly work patterns after retirement; and (c) to effect a degree of savings to the OASI trust fund.

The monthly earnings test was kept available in the first year of retirement since a person might actually retire at any time of the year and would need a monthly test to prevent his or her earnings before entitlement from affecting entitlement to benefits after retirement in that year. In making this change, however, certain categories of beneficiaries whose interests fall outside the rationale for the change were adversely affected. Many teachers have been hurt by the

administrative decision of HEW to interpret Sec. 303 on a retrospective rather than prospective basis. And many other teachers have suffered loss of benefits because of a technical oversight in the law which triggers the grace year whenever an individual attaining age 65 files for Medicare coverage.

The decision to apply the initial year of retirement concept retroactively was made by HEW in April, 1978, almost four months after Public Law 95-216 became effective. As a result, many newly retired persons lost social security benefits in 1978 and 1979, and more individuals stand to lose benefits over the next four years. Further, administrative policy creates future hardships for many Americans who are still working but who, for a variety of reasons, had filed for social security benefits for nonservice months in years prior to 1978. A significant number of these workers had been counseled and urged by the Social Security Administration to file for benefits in previous years and had been assured that they would not suffer future losses of benefits. Under current policy they will lose benefits when they actually retire.

A technical problem resulting from the introduction of the grace year provision affects both past and future Medicare recipients who continued to work or will continue to work in the future beyond age 65. Under current law, those individuals trigger the grace year by applying for Medicare at age 65 and then having one non-service month during their remaining working life. This provision will affect every educator who continues to teach after age 65 through no fault of his/her own because of the breaks during the summer months between semesters. Of course, seasonal workers, salesmen, and other American workers might have an isolated month of no earnings after 65 and would also be affected.

Mr. Chairman, we are pleased that the House of Representatives unanimously

approved HR 5295, a bill to correct the unintended effects of Sec. 303, on December 19, 1979. The report of the Ways and Means Committee (H. Rept. 96-537) makes it clear that the intent of the legislation is to provide for prospective application of the elimination of the monthly earnings test, and that all beneficiaries would have the use of the monthly test in at least one year after 1977. As a result, people who lost social security benefits under the retrospective implementation would have their benefits restored. HR 5295 corrects the technical problem with respect to Medicare Part A by providing for separate applications for social security cash benefits and Medicare benefits. NEA supports the provisions of HR 5295, and we are pleased that the OASDI cost estimates provided by the SSA Office of the Actuary on January 29, 1980, are substantially below the original projections in the Ways and Means Committee Report. We urge that this Committee report HR 5295 favorably, with language concurring with the intent of the House.

For the Committee's information we have attached to this statement several letters from teachers who have sought NEA's help in resolving the problems arising from the implementation of Sec. 303 of Public Law 95-216.

Thank you.

ATTACHMENT I
Source: NEA Research

NEA Research Memo *October 1979*

POTENTIAL TERMINATION OF SOCIAL SECURITY: GUIDELINES FOR EDUCATION ASSOCIATIONS

Social Security* coverage has been made available for teachers and all public employees of states and their political subdivisions through amendments to the Social Security Act in 1950, 1954, and 1956. *The coverage is contracted only through agreements between the U.S. Secretary of Health, Education, and Welfare and the states.* Under these agreements, each state decides what public employee groups will be covered, subject to provisions in the federal law that assure retirement system members a voice in the coverage decision. Under these provisions, 70 percent—8 million out of the 12 million state and local employees—are covered under Social Security. (This equals 9 percent of the total enrolled in the system.) Of 4 million employees who are not covered, 250,000 are in occupations excluded from coverage. Most of those not covered under Social Security are covered under a state or local retirement system.

Referendums on Coverage

From 1935 to 1949, the first 15 years of the existence of Social Security, public employees were excluded from coverage. In 1950, however, amendments to the Social Security Act made public employees eligible for coverage if they were not already covered by a state or local retirement system. At that time public school teachers in every state were covered by a state or local retirement system. Therefore, for teachers to become eligible for Social Security coverage, it was necessary for a state to abandon its retirement system. Eight states did do this; but each later readopted a retirement system, in addition to the Social Security coverage.

Legislation enacted in 1954 made Social Security coverage available to state and local government employees covered under retirement systems. (At their own request, police and fire fighters continued to be excluded from coverage.) The 1954 amendments stipulate that the majority of all eligible members of a retirement system must vote in favor of coverage—not just the majority of those members casting a vote. These amendments still apply for referendums on coverage. If a majority vote for coverage, the state coverage agreement may then extend to all services performed by employees in positions covered by the retirement system—including future as well as current employees. Under these provisions, states may also authorize statewide referendums or may authorize local districts or counties to hold local referendums.

**The technical name of the program is Old-Age, Survivors, Disability, and Health Insurance (OASDHI), known earlier by shorter titles.*

Divisional Method

Further refinement of the referendum procedure came as a result of the 1956 Social Security amendments, which permitted in certain named states the division of a retirement system into two employee groups—those who wanted Social Security coverage and those who did not. Those wishing coverage thereby came under Social Security subject to the provision that all future members were automatically covered under Social Security.

Amendments to the Social Security Act have authorized 20 state governments to cover their public employees by the divisional method. Those states and the year each was named are as follows:

1956	1957	1960	1965
Florida	California	Texas	Alaska
Georgia	Connecticut		
Hawaii	Minnesota	1961	1968
New York	Rhode Island		
North Dakota		New Mexico	Illinois
Pennsylvania	1958		
Tennessee		1964	
Washington	Massachusetts		
Wisconsin	Vermont	Nevada	

Of the above states, Alaska, Connecticut, Massachusetts, Nevada and Rhode Island have not implemented the authorization. In addition, only some teachers in Georgia, New Mexico, Texas, and Vermont are covered by Social Security on a countywide or districtwide basis. In California, teachers are not covered, although other public employees are covered.

Methods of Integrating Social Security Coverage

When entering the Social Security program, each state system chose one of three paths. The first—then known as supplementary—was simply additive. The system plan was not changed at all, and Social Security was merely added to it.

The second path involved reshaping the state or local law as an offset or envelope plan. All or some proportion of the employee's primary Social Security benefit was subtracted from the amount specified by the system's formula to determine its net payment.

The third was adoption of a coordinated plan (known in private industry as an integrated formula).

Integration by offset plan. Three state systems originally offset part or all of the Social Security benefit against the benefit due from the retirement system. The retirement system paid the difference between the Social Security benefit due, or a percentage of it, and the benefit that the teacher would be eligible for under the retirement system.

Coordinated plan. Originally, the Social Security benefits of 15 systems were coordinated but not offset. Several systems continue to use the coordinated formula. For example, one system provides a retirement allowance, using the following formula: 1.25 percent of final average compensation not in excess of $5,600, plus 1.50 percent of such compensation in excess of $5,600. Another method for computing benefits excludes a flat amount of salary as being subject to mandatory contributions and subtracts this amount from final average salary.

Recently, several bills that would coordinate Social Security with the retirement benefit have been introduced in state legislatures. The trend resulted from the rapid escalation in the basic Social Security benefit.

Under the coordinated plan, a teacher could receive retirement benefits in excess of final average salary. For example, a teacher who retired after 40 years of service from a system with a fixed 1.75 percent formula factor and who had a final average salary of $10,000 would receive an annual retirement benefit of $7,000 from the system. If a teacher and spouse are also eligible to receive a monthly Social Security benefit of $320 ($3,840 annually), the combined retirement benefit would be $10,840 a year—$840 a year more than final average salary. It is rare, however, to find significant numbers of teachers with 40 years of service at retirement; 20 years of service is a more realistic average. By assuming 20 years of service in the example above, the annual combined retirement income would be $7,340.

Extent of Coverage Today

Some or all teachers in 38 states—an estimated 75 percent of all instructional personnel in elementary and secondary public schools—are now under the Social Security program. Table 1 shows the states where teachers are covered by Social Security and the types of coverage provided; Table 2 shows that two local retirement systems provide fully supplemental coverage; four systems provide coordinated coverage; and two systems provide coverage on the divisional basis by the offset method. The state and local retirement systems that do not provide Social Security coverage are shown in Table 3.

TABLE I.–SOCIAL SECURITY COVERAGE OF PUBLIC SCHOOL TEACHERS

37 State Retirement Systems

State	Effective date of coverage	Type of coverage
1	2	3
Alabama	1955	Supplementary; statewide
Arizona	1953	Supplementary; statewide
Arkansas	1961	Coordinated; statewide
Delaware	1953	Supplementary; statewide
Florida[a]	1970	Supplementary; statewide
Georgia	1956	Supplementary; local option; limited application
Hawaii	1956	Supplementary; divisional; limited application
Idaho	1956	Supplementary; statewide
Indiana	1955	Coordinated; statewide
Iowa	1951	Supplementary; statewide
Kansas	1955	Supplementary; statewide
Maryland	1956	Supplementary; statewide
Michigan	1955	Coordinated; statewide
Minnesota	1960	Coordinated; limited application
Mississippi	1951	Coordinated; statewide
Montana	1955	Supplementary; local option; limited application
Nebraska	1955	Supplementary; statewide
New Hampshire	1957	Coordinated; statewide
New Jersey	1955	Supplementary; statewide
New Mexico	1955-56	Supplementary; local option; limited application
New York	1958	Supplementary; divisional; limited application
North Carolina	1955	Coordinated; statewide
North Dakota	1955	Supplementary; local option; limited application
Oklahoma	1955-56	Supplementary; local option; limited application
Oregon	1951	Coordinated; statewide
Pennsylvania	1956	Supplementary or offset; divisional; limited application
South Carolina	1955	Coordinated; statewide
South Dakota	1951	Supplementary; statewide
Tennessee	1956	Coordinated; divisional; limited application
Texas	1956	Supplementary; local option; limited application
Utah	1953	Supplementary; statewide
Vermont	1963	Supplementary; local option; limited application
Virginia	1951	Coordinated; statewide
Washington	1957	Supplementary; statewide
West Virginia	1956	Supplementary; statewide
Wisconsin	1955	Coordinated; divisional; limited application
Wyoming	1951	Supplementary; statewide

[a]Established in 1970 to include all public employees; provides mandatory Social Security coverage for members. Teachers who chose to remain in the former teachers' retirement system are not covered by Social Security.

5

TABLE 2.–SOCIAL SECURITY COVERAGE OF PUBLIC SCHOOL TEACHERS

Eight Local Retirement Systems

Full supplementation: No modification of existing retirement system	*Coordination:* Existing retirement system modified to adjust to OASDHI	*Divisional:* Basis offset
1	2	3
Des Moines, Iowa, 1953	Kansas City, Missouri, 1955[a]	Knoxville, Tennessee, 1963
Duluth, Minnesota, 1957	Omaha, Nebraska, 1955	
	New York, New York, 1956[a]	Milwaukee, Wisconsin, 1955[b]
	Portland, Oregon, 1955	

[a]Fully supplemental and coordinated types of coverage are provided.
[b]Offset for service before September 1, 1958, retroactive to January 1, 1955; supplemental for service after September 1, 1958.

TABLE 3.–TEACHER RETIREMENT SYSTEMS THAT DO NOT HAVE SOCIAL SECURITY COVERAGE

13 State, 4 Local

State system	Local system
1	2
Alaska[a]	Denver, Colorado
California[a]	Chicago, Illinois
Colorado	Minneapolis, Minnesota[b]
Connecticut[a]	St. Paul, Minnesota[b]
Illinois	
Kentucky	
Louisiana	
Maine	
Massachusetts[a]	
Missouri	
Nevada[a]	
Ohio	
Rhode Island[a]	

[a]Authorized by amendments to the Social Security Act to adopt OASDHI on a divisional basis, but have not done so.
[b]Minnesota has coordinated Social Security coverage on a divisional basis; but no coverage is provided in Minneapolis and St. Paul.

ATTACHMENT II

Resolutions Passed by the 1979 NEA Representative Assembly

E-7. Social Security

The National Education Association believes that Social Security should be available to eligible teachers where desired, but shall not be mandated. Contracts with Social Security should provide for supplementary plans rather than integrated or coordinated plans.

The Association also believes that teachers who are presently covered under Social Security should strive to remain in the program. It insists on a referendum that would require a majority of affirmative votes of those eligible to vote before a governmental agency files notice to withdraw from the program. If the employee organization votes against withdrawal, cooperative educational and legislative campaigns to forestall withdrawal should be organized and coordinated with other public employee groups.

The Association urges the reform of Social Security laws to eliminate offset provisions that are discriminatory and discrimination based on sex, marital status, or time of retirement and to reduce the retirement age. No benefit promised or no benefit for which money has been collected should be withdrawn without adequate replacement.

The Association further believes that Social Security retirement and survivor benefits should be based upon the Social Security program and Social Security taxes. Health and disability programs should be removed from the Social Security program and financed from general tax revenues. (77, 78)

E-8. Teachers in the Civil Service Retirement System

The National Education Association believes that the retirement program for teachers in the Bureau of Indian Affairs; Health, Education, and Welfare; Department of Defense Dependents Schools; and Department of Defense Section Six schools should remain in the Civil Service Retirement System and should not be merged with the Social Security system. (79)

Restoration of Spousal Benefits Under Social Security

The 1979 Representative Assembly establishes the restoration of full spousal benefits under Social Security as a top congressional legislative priority with a maximum lobbying effort to ensure success. A progress report shall be made to the next Representative Assembly.

In addition, the Representative Assembly requests that NEA-PAC and each state and local association's political arm, when dispensing political action funds, give serious consideration to the positions of all senators and representatives on this matter. (1979-47)

Equity in Social Security Benefits for Men and Women

Whereas the Social Security system is predicated on the assumption that males are the sole support of families, and

Whereas Social Security benefits are determined on the basis of sex and marital status; be it therefore

Resolved that the NEA lobby actively for the development and passage of legislation that would ensure equity for men and women in Social Security benefits. (1975-48)

ATTACHMENT III

OAKLAND COMMUNITY COLLEGE
AUBURN HILLS CAMPUS 2900 FEATHERSTONE ROAD AUBURN HEIGHTS, MICHIGAN 48057 313-852-1000

February 13, 1978

Governmental Affairs
National Education Association
1207 16th Street, N.W.
Washington, DC 20036

Gentlemen:

Help! I am a teacher who, having reached age 66 last December, planned to retire in June, 1978. But, having read the new law for 1978, I find I cannot receive any benefits during the year of 1978 because I must include the last half of my contractural salary for the school year 1977 - 1978.

This means that I will have earned well over $4,000. So, for every $2.00 I earned over that amount, I lose $1.00 in benefits.

Now, there will be many teachers in the same position as I find myself. Each year several thousand teachers, who are always hired on a basis of September through June, will not be able to collect their Social Security for the balance of the year in which they retire.

Under the old law, anyone could, and did if they were eligible, collect Social Security payments for any month they did not earn over $250. The new law has the monthly earnings test, but it applies for one year only. If the new law supersedes the old law without a "grandfathering" of the actions of the past years, we are in trouble.

Besides, how many Boards want to hire a teacher for a half year? We would have to do that if we expect to retire and pick up our Social Security payments when we do retire.

Please seek for a correction of this injustice.

I am a member of the MEA/NEA under contract with Oakland Community College.

Sincerely yours,

HHG/ar

Rt 2 Box 88
Howard, Oklahoma 7476.

National Education Assoc.
1201 16th St. N.W.
Washington D.C. 20036

Dear Sirs

I noticed in the "NEA Reporter" you were concerned over the Retirement Act changes and information on H.R. 5295. I want to do something in concern to this bill. I will appreciate advise on what to do. I am a NEA, OEA retired member.

I was one of those teachers hurt in this endeavor. I retired in May 1979 from Idabel Public Schools Idabel, Okla. I had been informed that it would be to my advantage to retire at 62 and draw the Summer Checks. I retired in 1975 in Aug. drawing 1 check. I drew two in 1976 and was informed in 1977 that the law had changed.

My co-worker who retired with me last May did not retire at 62 and she is receiving a greater amount than I.

If it's no resentment to the Soc. Security Changes in their endeavor to help matters, I would like see this taken care of. I feel many teachers fell in my category and really need the changes. Had the changes not been made as Social Security advised I may have been better off by drawing the Summer checks.

Sincerely yours.

13 December 1978

Social Security Administration
Department of HEW
P. O. Box 1585
Baltimore, MD 21203

Dear Sirs:

On behalf of many Indiana teachers I wish to protest the unfair application of portions of the Social Security Amendments of 1977. Specially, I refer to the elimination of the monthly earnings test for those teachers who received benefits during the summer months of unemployment in years prior to January, 1978.

In total compliance with all laws and regulations in effect at the time, many Indiana teachers applied for, and received, Social Security benefits for their summer months of unemployment. At no time were they informed that they would lose future benefits during the first year of retirement by so doing. Teachers retiring in 1978, and possibly in later years, have lost, or will lose, benefits through no fault of their own. The rules were changed too late, and with no warning, for them to choose the most advantageous benefit program.

Perhaps the new rules did correct inequities in the Social Security program. If so, this is commendable. However, the implementation of the new rules retroactively, created other injustices which can be corrected with a temporary waiver of the elimenation of the monthly test for those affected during a transition period. I urge you to consider such an action.

Thank you for your attention to this matter. I'm sure that representatives from the National Education Association, in behalf of thousands of teachers throughout this nation, will be communicating with your office seeking a just and reasonable solution to this problem.

Sincerely,

cc: Arnold Spilly, Executive Secretary Indiana Retire Teachers Association
Rosalyn H. Baker, NEA

1305 Ohio
Midland, Mich 48640
May 30, 1978

N.E.A. of U.S.
1201 16th St. N.W.
Washington, DC 20036

Dear Madam/Sir:

Our Local Exec. Secy suggested that I write concerning what has happened to me because of the 1978 changes in the S. Security law. He told me that the N.E.A. is working to get the law amended and I was very glad to hear that. I am a Life Member of N.E.A.

Last summer, I received a letter from S.S. Office informing me I had to report soon in order to sign up for Medicare. (I was to turn 65 Oct. 28) I did report and told them I didn't need Medicare as I was going to work another year and had excellent health insurance. They told me my school contract forced me to get Medicare and I later found out that was true. So I signed up. Then they said I could file for benefits for July of 1976 & 77 and in due time I received about $700.

In May, I received a letter from S.S.

Benefit Information dated Nov. 29 '78 telling me I would receive no benefits until Nov. and then only $79 because I earned $_____ in 1978. It is my understanding that had I not signed up until now (and which I had planned to do) I would receive benefits the month after I terminate employment. My feeling is that we were not informed of the consequences (which had not been formed yet) and now are having to pay them. I certainly would have purchased private insurance for 10-8 months had I known. (Medicare is not free anyway)

Thus, it is my feeling that we should be able to "grandfather in" under the rules as they were when we were forced to sign up.

I have written my Congressman, Hon. E. Cederberg about this also.

It's very sad to have a National organization in Washington to work on this for us and wish you much success.

Sincerely yours,

500 Northwest Drive
Silver Spring, Md.
Aug. 27, 1979

N. E. A.
16th St.
Washington, D.C.

Dear N.E.A.:

I am a life member of N.E.A. and would like you to know a problem which I have as a retired teacher.

I retired as of July 1, 1979 (age 62) after teaching in Montgomery County for thirty-four (34) years, and have just learned that I can't get my social security because I made over $4,500 this year.

I did not sign up for SS until April '79, and had only received two checks from them in 1977 when I didn't work during the summer. I went from 12 mos. teaching back to ten (required to do this by Board of Education)

My husband was on

disability years ago. They wouldn't pay him until he had been disabled for 6 mo. + by the time they began paying him he died. I couldn't receive any of his money, because I was working and making too much. All the money he put in was lost!

They tell me a law was passed in 1977 that affects my social security. I still don't understand this! Could N.E.A. do anything about having this law changed.

I filed for medicare in 1976 because I was 65 and the county informed me that I should do this. Please let me hear from you.

Most sincerely,

MICHAEL STERN, *Staff Director,*
Senate Committee on Finance,
Dirksen Senate Office Building,
Washington, D.C.

Statement on: *Adverse Effects of Eliminating Monthly Exception to Annual Retirement Test*

My wife and I are classed as self-employed because we own a small business. We are retired and receiving Social Security pensions.

Since my business (Dry Cleaning) involves a substantial amount of equipment subject to breakdown at any time leading to the probability of expensive repairs or replacement it is essential to carry a reasonable reserve of cash as a safety factor. If not, we could at any time be forced to borrow at prohibitive interest rates, or, depending on the state of the business might even be refused a loan which would probably put us out of business.

Due to sales fluctuations alone I have been forced at times to withdraw from business savings, bringing my reserve down to a dangerously low level with no guarantee that the next few months will allow me to build it up nor that no serious emergency will occur. This places my business in a risky and unhealthy economic position.

Our 1979 Net Income from business was $12,375.

Months in which earnings were below $665:	*Amount of earnings*
August (loss)	(605)
September	449
October	643

Obviously not all financial obligations could be met (leaving us something to live on) without depleting our safety stock of cash.

Moreover, our business is seasonal and likely to be at a low ebb during summer and early fall. During these months last year I received no Social Security benefits.

A net income of $12,000 plus Social Secuirty benefits based on exempt amounts is probably sufficient for a homeowner living in an average middle class neighborhood if and only if the $12,000 annual income is guaranteed. *Ours is not;* we are reasonably safe from financial ruin only if we are able to maintain a sufficient savings account for business emergencies.

In effect we feel that no consideration has been given to the risks we take in operating a small business and incidentally giving steady employment to others in our community.

JOHN W. CHERNOFF.
MARY E. CHERNOFF.

[Whereupon, at 4:40 p.m. the subcommittee recessed, to reconvene at the call of the Chair.]

[By direction of the chairman the following communications were made a part of the hearing record:]

APRIL 9, 1980.

STATEMENT OF SENATOR RICHARD (DICK) STONE BEFORE THE SENATE SUBCOMMITTEE ON SOCIAL SECURITY

LIMITATIONS ON EARNED INCOME MEAN UNLIMITED TRANSER PAYMENTS FOREVER

MR. CHAIRMAN, I'VE WAITED A LONG TIME FOR THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF ELIMINATING THE EARNINGS CEILING ON SOCIAL SECURITY BENEFICIARIES. I THANK YOU FOR SCHEDULING THESE HEARINGS, AND FOR MAKING SOME TIME AVAILABLE FOR ME TO COMMENT.

MY TESTIMONY, MR. CHAIRMAN, CONCERNS A GLARING INEQUITY IN THE BASIC FINANCIAL SOCIAL SECURITY PROGRAM WHICH PENALIZES OLDER AMERICANS WHO EITHER NEED, OR WISH, TO CONTINUE WORKING AFTER THE AGE OF 65. UNDER PRESENT LAW, THE SOCIAL SECURITY RECIPIENT WHO IS BETWEEN 65 AND 72 YEARS OF AGE IS DENIED $1 FOR EVERY $2 EARNED OVER THE EARNINGS LIMITATION, WHICH IS NOW $5,000. THIS MEANS THAT A SOCIAL SECURITY BENEFICIARY WHO RECEIVES THE AVERAGE MONTHLY PAYMENT OF $294.00 LOSES IT ENTIRELY AS SOON AS HE OR SHE EARNS APPROXIMATELY $11,000 A YEAR.

DURING THESE TIMES OF INFLATION, SOCIAL SECURITY BENEFITS ALONE ARE NOT SUFFICIENT TO PROVIDE A DECENT STANDARD OF LIVING. MANY ELDERLY PERSONS MUST WORK TO SUPPLEMENT THEIR MEAGER RETIREMENT INCOME. AND YET IT IS THESE VERY INDIVIDUALS, WHO DO NOT HAVE INDEPENDENT SOURCES OF INCOME, WHO ARE PENALIZED MOST UNDER THE PRESENT SOCIAL SECURITY SYSTEM.

NOW, UNEARNED INCOME IS NOT SUBJECT TO ANY LIMITATION. THUS, AN INDIVIDUAL MAY RECEIVE ANY AMOUNT OF INCOME FROM PRIVATE INSURANCE, INVESTMENT DIVIDENDS AND OTHER SOURCES OF NONWORKING INCOME WITHOUT EXPERIENCING ANY REDUCTION IN BENEFITS. BUT THE INDIVIDUAL WHO CONTINUES TO WORK AFTER AGE 65 MUST SACRIFICE ALL OR PART OF HIS OR HER SOCIAL SEUCRITY BENEFITS.

IN ADDITION TO INTRODUCING MY OWN BILL FOR EASING THIS BLATANT FORM OF DISCRIMINATION AGAINST MORE THAN 11 MILLION OF OUR CITIZENS WHO ARE BETWEEN THE AGE OF 65 AND 72, I ALSO JOINED SENATOR GOLDWATER IN COSPONSORING S. 1287, A BILL THAT WOULD REPEAL THE EARNINGS LIMITATION FOR ALL PERSONS AGE 65 AND OLDER BEGINNING IN JANUARY OF 1983.

ASIDE FROM NEEDING TO COPE WITH THE HIGH COST OF LIVING, THE ELDERLY LIVE LONGER AND HAPPIER LIVES WHEN THEY ARE GAINFULLY EMPLOYED. ACCORDING TO THE AMERICAN MEDICAL ASSOCIATION OLDER PERSONS SUFFER GREAT PHYSICAL AND MENTAL HARM BY BEING FORCED TO RETIRE SOONER THAN THEY WISH. THE SOCIAL SECURITY ADMINISTRAITON HAS ACCESS TO STUDIES WHICH SHOW THAT ONLY 16% OF RETIRED MEN AGE 65 ACTUALLY WANT TO RETIRE. THAT SAME 1974 STUDY, (THE) "EFFECT OF THE ELIMINATION OF THE RETIREMENT TEST OR OASDI REVENUES", BY P. CAGEN, INDICATES THAT ONLY 14% OF ALL MEN AGE 65 HAD LEFT WORK AS RESULT OF HEALTH REASONS. ANOTHER STUDY PUBLISHED BY SOCIAL SECURITY (IN 1971) BY V. RENO CLAIMS THAT 36% OF MEN AGED 65 GAVE COMPULSORY RETIREMENT POLICIES AS THE REASON THEY DISCONTINUED THEIR EMPLOYMENT.

We no longer have a mandatory retirement age, but there is evidence that the social security earnings limitation test is an effective deterrent to continued gainful employment after age 65.

Retirement data research by Professor Michael Boskin of Stanford University, printed in, "Social Security and Retirement Decisions", Economic Inquiry, Vol 15 (January 1977) at page 13, show that the earnings test "dramatically increases the probability of retirement." Professor Boskin also found that a reduction "of the earnings tax from 1/2 to 1/3 cuts the probability of retirement in half for typical workers."

If a 50% reduction in the earnings limitation would keep about 50% of our retirees working, imagine the benefit of eliminating the tax altogether!

Leaving little to the imagination, Professor Marshall Colberg* of one of my favorite universities, Florida State in Tallahassee, Florida has given five big cost savings :

(a) Expansion of the labor force would result in added income tax collections;

(b) Payroll tax collections would increase as result of the added employees, their

EMPLOYERS, AND THE INCREASE IN SELF-EMPLOYED RECIPIENTS OF OLD-AGE BENEFITS;

(C) UNDER REPORTING OF EARNED INCOME TO THE IRS SHOULD DECLARE;

(D) MORE FEDERAL EXCISE TAXES WOULD BE COLLECTED; AND

(E) THERE'LL BE REDUCTION IN ADMINISTRATION COST FOR THE SOCIAL SECURITY ADMINISTRATION

PROFESSOR COLBERG HAS ESTIMATED AND ADDED FEDERAL TAX COLLECTION OF $454 MILLION A YEAR OF THE EARNINGS LIMITATION IS REPEAL.

I REALIZE, MR. CHAIRMAN, THAT MANY OF THESE CONCLUSIONS ARE NECESSARILY BASED ON UNTESTED ASSUMPTIONS AND HYPOTHETICALS. HOWEVER OUR SYSTEM OF GOVERNMENT WAS ALSO BASED ON CERTAIN UNTESTED ASSUMPTIONS ABOUT HUMAN NATURE. OUR FOREFATHERS BELIEVED THAT UNDER A GOVERNMENT THAT ALLOWED MAXIMUM FREEDOM FOR THE INDIVIDUALS, THE MAJORITY WOULD EXERT MAXIMUM EFFORT IN BEHALF OF THEIR OWN SELF INTEREST. THE ASSUMPTIONS OF OUR FOREFATHERS ARE NO LONGER UNTESTED. THE RESULTS OF THE ECONOMIC DYNAMO UNLEASHED IS ALL AROUND US.

I, BELIEVE, MR. CHAIRMAN THAT IF WE UNLEASH THE EARNINGS

LIMITATIONS FETTERS ON OUR ELDERLY, WE'LL SEE A SIMILAR RESULT. WE'LL SEE A HEALTHIER OLDER AMERICA AND WE'LL SEE A SIGNIFICANT LEVELING OF THE TRANSFER PAYMENTS PAYOUT THAT ARE RELATED TO OLD-AGE SECURITY.

I, THEREFORE, URGE THIS COMMITTEE, MR. CHAIRMAN, TO REPEAL THE EARNINGS LIMITATION AND GIVE BACK TO OLDER AMERICANS THE INCENTIVE TO MAKE MORE OF THEIR OWN WAY IN THE WORLD.

* PROFESSOR COLBERG'S STUDY APPEARED IN " THE SOCIAL SECURITY RETIREMENT TEST; RIGHT OR WRONG?", AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH, 1973, AT PP. 42-43 .

STATEMENT OF CHARLES E. GRASSLEY

BEFORE THE SENATE COMMITTEE ON FINANCE

APRIL 21, 1980

MR. CHAIRMAN, thank you for the opportunity to testify this morning on the income earnings limitation for Social Security recipients.

It has been said that the true test of a society is the way in which it treats its senior members. I think it is fair to say that the social security earnings test has become for many a symbol of the arbitrary and condescending way we treat our seniors. The earnings test is not only unfair, it is, in my view, counterproductive.

It is unfair because it selects an arbitrary figure above which a 50 percent tax is applied on earnings. This 50 percent tax is in addition to Federal and State income taxes already paid on those earnings. The penalty is also arbitrary because it applies only to earned income, ignoring income from investments. And it is arbitrary because it does not relate to need.

But there is an economic argument as well as a humanitarian one for repealing the earnings limitation. The earnings test deprives our economy of the skills and productive capacity of millions of older citizens who want to work, who are capable of working, and who are not now working for no other reason than to avoid having their Social Security checks reduced. Not only do we lose their skills and output, we also lose the taxes which they would be paying on those earnings.

63-893 O - 80 - 18

All of this because of an arbitrary rule which relies solely on a person's age and income level to determine their capabilities.

In talking to senior citizens in my congressional district and in the many letters I receive from them, they have told me that they want the freedom to live a life of independence. They want to be able to decide for themselves whether or not to continue working. They want the freedom to adjust their lifestyles in a way consistent with their own desires. They want to live out their twilight years with a degree of independence which permits them to be recognized as individuals.

The kinds of limitations placed on their earnings by the Social Security law has trapped them into a position where they have become dependent on other people and dependent on Government just to get by. They are proud individuals and this dependence is extremely difficult to accept.

At a time when Mr. and Mrs. Middle America are struggling to keep their heads above water, it is inequitable to deny our seniors an equal opportunity to adjust to the continually-rising cost-of-living. Despite the automatic cost-of-living increases they receive annually in their benefits, many would like to be able to provide more for their families and live their lives with more dignity.

As my colleagues are aware, the Congress has elected not to be included in the Social Security System. The result of

this oversight is that there is not an earnings limitation placed on the annuities received by members of Congress. I have been toying with the idea of introducing legislation which will put members in the same position as our seniors. While I realize the chances of passing such legislation are slim and none, I would hope that this bill would gain the members' attention long enough for them to understand and empathize with the inequities of the current earnings limitation for social security recipients.

I urge the members of the committee to put an end to this debilitating provision which robs the seniors of this country of their dignity.

# # #

Statement of Representative Willis D. Gradison, Jr.

TESTIMONY BEFORE SENATE FINANCE SUBCOMMITTEE ON SOCIAL SECURITY
RE: HR 5295

Mr. Chairman, thank you for the opportunity to comment on HR 5295, a Social Security reform bill. As a member of the House Ways and Means Subcommittee on Social Security, I have worked on this legislation from the outset and have closely followed its progress. I am pleased to be able to express my support for this important legislation.

HR 5295 is needed to correct unforeseen problems which resulted from the 1977 Social Security Act Amendments. The 1977 law replaced the monthly measure of retirement with a strictly annual test. The purpose of this change was to remove an inequity created by the differing treatment of individuals with earnings spread evenly throughout the year and those with earnings received during only part of the year. However, this change resulted in unforeseen injury to a number of groups such as self-employed insurance agents, teachers, farmers, mothers and children. HR 5295 would rectify this problem by clarifying the language of the 1977 Act and providing redress to individuals unfairly harmed by the law.

In mark-up, the House Social Security Subcommittee was confronted with a number of bills which targeted assistance to individual groups. During consideration of this matter, the Subcommittee expressed the sense that once an effort had been initiated to rectify a specific problem area, there would be no justification for only helping some while leaving others stranded. Believing that it would be inequitable and discriminatory to do otherwise, the Subcommittee unanimously approved the comprehensive approach taken in HR 5295. The full Ways and Means Committee concurred with this decision by voice vote.

During floor debate in the House, there was some concern expressed

over the expected revenue loss arising from Section 4 of the bill. Section 4 would directly assist over a quarter of a million individuals. It would provide redress to those who lost benefits as a result of the retrospective application of the 1977 "grace year" provision. Prior to 1977, under the monthly retirement test, teachers age 62 and over were eligible for Social Security benefits in the summer months of unemployment and, as was common practice, many received benefits during these periods. The 1977 amendments eliminated the monthly test except for the first year of retirement -- the so-called "grace year." The intent of the "grace year" is to allow individuals who retire in the middle of the year to receive full benefits for the remainder of that year. For example, a teacher who retires after completion of the school year in June would be permitted to collect retirement benefits for the remaining months of the year.

However, retrospective application of the "grace year" nullified this intended result for many teachers. Those individuals who applied for benefits during the summer months of unemployment (before 1977) unknowingly activated their grace year (which under the law did not yet exist) and lost the opportunity to use it during the first year of retirement. To penalize these teachers for acting properly under the law is clearly unfair. Therefore, Section 4 was left intact and HR 5295 was passed overwhelmingly by a vote of 383 to 0.

It should also be emphasized that the Social Security Administration has released revised revenue estimates which reveal a dramatically lower cost for Section 4 and the bill in its entirety. The projected first year cost of Section 4 was reduced by over 78% from $229 million to $50 million; the estimated cost of the entire bill was lowered from $316 million to $94 million. As can be seen from the attached

tables, even further reductions from the original figures occur thereafter.

HR 5295 is entirely remedial in nature. It is a good bill which merits your support. I hope your Committee will give this legislation the expeditious consideration it deserves.

-30-

ATTACHMENT

ATTACHMENT

TABLE 1: Cost Comparison for HR 5295 (Old estimate: Revised estimate)

	Old Estimate[1]	Revised Estimate[2]
1980	$316	$94
1981	73	47
1982	69	48
1983	77	53
1984	86	59
1985	96	66

(By fiscal years, in millions of dollars.)

[1]SSA estimates prior to January 29, 1980.
[2]SSA revised estimates after January 29, 1980.

TABLE 2: Cost Comparison for Section 4 (Old estimate: Revised estimate)

	Old Estimate[1]	Revised Estimate[2]
1980	$229	$50
1981	13	8
1982	2	2
1983	(3)	(3)
1984	(3)	(3)
1985	(3)	(3)

(By fiscal years, in millions of dollars.)

[1]SSA estimates prior to January 29, 1980.
[2]SSA revised estimates after January 29, 1980.
[3]Less than $500,000.

LAW OFFICES
SUTHERLAND, ASBILL & BRENNAN
1666 K STREET, N. W.
WASHINGTON, D. C. 20006
(202) 872-7800

April 23, 1980

Honorable Gaylord Nelson
Chairman, Subcommittee on Social Security
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Senator Nelson:

This letter is submitted on behalf of Massachusetts Mutual Life Insurance Company and Northwestern Mutual Life Insurance Company for inclusion in the printed record of your Subcommittee's April 21, 1980 hearings on H.R. 5295, dealing in part with the adverse impact of the repeal of the so-called "monthly earnings test" by the Social Security Financing Amendments Act of 1977 (P.L. 95-216). As explained below, repeal of the monthly earnings test has had an unintended but nevertheless substantial adverse impact upon the calculation of social security benefits otherwise payable to self-employed life insurance agents. Section 3 of H.R. 5295, as unanimously passed by the House on December 19, 1979, would remedy this situation, and its prompt enactment is therefore clearly warranted. It is significant to point out that the companies on whose behalf this statement is filed will not themselves be the direct beneficiaries of this remedial legislation. Rather, it is the small businessmen and women who were agents of the companies prior to retirement who are the intended beneficiaries of section 3 of H.R. 5295.

I. Explanation of the Problem

Background Information. Life insurance agents, whether they are self-employed or employees of a particular company, are typically compensated on a commission basis. With respect to each policy sold, the agent who actually makes the sale receives a first year commission and, in addition, a series of payments in subsequent years (typically continuing for eight to ten years) commonly known as renewal commissions, contingent

upon the policyholder's continued payment of premiums. Payments similar to first year and renewal commissions are also paid to general agents, who supervise the activities of a group of agents within a particular area. Such payments to general agents, which are often referred to as "override" commissions, are intended to be included in our references below to "renewal commissions."

The Situation Prior to 1977. In the case of a self-employed life insurance agent, renewal commissions are included in the computation of "net earnings from self-employment" in the year received under section 203(f) of the Social Security Act (the "Act"). Further, under section 203(b) of the Act, social security benefits otherwise payable to a particular individual in a given year are reduced (or possibly eliminated) if and to the extent the individual has "excess earnings" for that year (defined as one-half of total earnings above an exempt amount) which in turn are based in part upon the individual's "net earnings from self-employment for such year."

Thus, renewal commissions paid to a self-employed life insurance agent who is eligible to receive social security benefits could, if sufficient in amount, constitute "excess earnings" which would in turn reduce or eliminate the social security benefits otherwise payable to him. However, prior to the passage of the 1977 Amendments, the so-called "monthly earnings test" contained in former section 203(f)(1)(E) of the Act operated to prevent, in most cases, any such benefit reduction. (Under the "monthly earnings test," the excess earnings of an individual would not be applied to reduce benefits in any month "in which such individual did not engage in self-employment . . . .") Such a result was entirely appropriate since the receipt of renewal commissions is not conditioned upon any specific activity to be performed by the agent in securing payment of the renewal premium. This treatment of renewal commissions paid to self-employed agents was also equivalent in final result (but not methodology) to that accorded agents who were employees, since renewal commissions paid to agents who were employees were (and still are) treated as received in the year the policy was first sold and so did not (and do not) affect their receipt of social security benefits.

The 1977 Amendments. For reasons not at all germane to the payment of renewal commissions to self-employed life insurance agents, the 1977 Amendments repealed the "monthly earnings test" for all but the first year in which an individual is eligible to receive social security benefits. As a result of

this abrupt change in the law, following the initial year of retirement a self-employed life insurance agent who has "net earnings from self-employment" above an annual limit will have his benefits reduced or totally eliminated even though his self-employment earnings for that year are composed solely of renewal commissions attributable to policies sold in prior years. In contrast, an agent who was an employee would not incur a reduction in benefits no matter how large the amount of renewal commissions he receives.

II. H.R. 5295

There is no question but that the impact of the 1977 Amendments on self-employed life insurance agents was unintended. Under these circumstances, remedial legislation is both clearly required and clearly appropriate. Section 3 of H.R. 5295 would accord such relief by amending section 203(f)(5)(D) of the Act to specify that, effective January 1, 1978, social security beneficiaries would not have included in their gross incomes (and thus would not have their benefits reduced by) any earned income which they could demonstrate was actually earned before they became eligible for social security benefits. In this connection we note that the House bill would perfect a relief measure dealing explicitly with renewal commissions which was passed by the Senate in 1978 but was not acted upon by a House-Senate conference for lack of time in the year-end press of business.

We also note that enactment of section 3 of H.R. 5295 should not be viewed as generating any new "revenue loss." Only a technical problem resulting from the manner in which the law was changed in 1977, both unintended and unfair, has prevented the disbursement of the benefits which would be paid upon enactment of this measure. There is thus no revenue loss, but only a delay in the payment of benefits which Congress had all along intended to pay to social security beneficiaries.

For the foregoing reasons, we urge prompt and favorable action to approve H.R. 5295.

Respectfully submitted,

Donald V. Moorehead

Donald V. Moorehead

SOS COALITION TO PROTECT SOCIAL SECURITY
SOS SAVE OUR SECURITY
1511 K ST., NW., SUITE 202 • WASHINGTON, D.C. 20005
TELEPHONE (AREA CODE 202) 347-8800

Chairman
Wilbur J. Cohen
Former Secretary, Department of Health, Education, and Welfare

Secretary-Treasurer
William R. Hutton
National Council of Senior Citizens

Associates
David Crowley
American Association of Homes for the Aging
Frank Bowe
American Coalition of Citizens with Disabilities
Lane Kirkland
AFL-CIO
Jerry Wurf
AFSCME
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James A. Burke

March 24, 1980

The Honorable Gaylord Nelson
Chairman, Subcommittee on Social Security
Senate Finance Committee
Senate Office Building
Washington, D.C. 20510

Re: HR 5295

Dear Gaylord:

I understand that HR 5295 is pending before your Subcommittee on Social Security. This bill rectifies a serious error initially made through action on the Senate floor in 1977, with regard to repeal of the monthly retirement test in social security.

I wholeheartedly support enactment of HR 5295. The retro-active impact of the original enactment was an especially unfortunate action which seriously undermines public confidence in the commitments made by Congress to the contributory social security system. HR 5295 would rectify this serious error.

We urge your Subcommittee to take favorable action on HR 5295. While we recognize that enactment of this bill will have budgetary impact, it should be kept in mind that the earmarked financing of social security results in the social security program having a balanced

budget. Therefore, we believe the budgetary impact of this bill should not be used as an argument against enactment of HR 5295.

With best personal wishes,

Sincerely,

Wilbur

Wilbur J. Cohen
Chairman

Address reply to:

Wilbur J. Cohen
Sid W. Richardson Professor
of Public Affairs
L.B.J. School of Public Affairs
The University of Texas at Austin
Austin, Texas 78712

DEPARTMENT OF BUSINESS ADMINISTRATION

February 25, 1980

The Honorable Gaylord Nelson
Finance Committee
United States Senate
Washington, D. C. 20510

Re: H. R. 5295
To Remedy Discriminations in 1977
Amendments to Social Security Act

My dear Senator Nelson:

I am writing to urge your support of the above measure which was passed unanimously by the House on December 19, 1979, and which I understand is now pending before the Senate Finance Committee.

Passage would go far to restore public confidence in the Social Security system which was injured by certain features of the 1977 amendments which, so I am told, were "inadvertent adverse effects". If so, they should be simple to correct through passage of H.R.5295.

In the Interim Report from the National Commission on Social Security to the President and Congress, transmitted on January 11, 1980, a copy of which I have before me, the final paragraph on Page 29 reads as follows:

> "Unforeseen problems with the provision eliminating the monthly test have been identified including: the recovery of benefits because of the retrospective application of the monthly test year, and an unintended hardship for certain classes of individuals, such as school teachers, farmers, self-employed life insurance agents, and students. The Commission recommends that these unintended results be corrected."

I testified (at my personal expense) at the hearing of the National Commission in Milwaukee, in October of 1979. I am sure that a copy of my written presentation would be available to anyone who might be interested.

Today, however, I should like to develop a different -- and even more serious -- aspect of the situation. Certainly, as a United States Senator, you are aware of the effect on the future credit standing of an individual, business organization, city, county, state, or nation which defaults on its written promise to pay an obligation.

I still hold some "War Savings Bonds", sold to me while I was in uniform in World War II and drawing $19 a month in net pay, which have been renewed at ten-year intervals and will mature in 1982. Congress doubtless could pass a law saying: "We will not honor these bonds, nor will we pay them (even in today's depreciated dollars) at maturity. They were promises of a previous administration, and hence are null, void and of no effect." However, thus far I am confident that the Congress will not enact such legislation because I am sure that the members are aware of the devastating effect on credit, even with the 12% the government must currently pay to borrow, once a government defaults on its promise to pay.

Now I am going to be personal, because insofar as I know I may be the

only person in this specific situation. However, I have before me the blue pamphlet (DHEW Publication No. SSA-73-10077) entitled "Your Social Security Rights and Responsibilities", handed to me at the time of my retirement in March, 1974. Significant sentences read:

> "You don't have to retire completely to get social security checks."
>
> "...your checks can be stopped while you're working and getting a regular income from work. Then, as soon as you stop working, the checks can be started again."
>
> "...no matter how much you earn, you'll get a full social security check for any month you neither earn over $175 as an employee nor perform substantial services as a self-employed person."

Although, as I am sure you will agree, the above is clearly expressed in the English language, in case there should be any doubt the case of the hypothetical "William Gray" was spelled out on Page 20:

> "Since Mr. Gray did not earn more than $175 in any of the months, September through December, he will receive the full benefit for each of those months."

There is no exculpatory clause in that booklet, an official publication of the United States government. Nowhere does it say: "You must remember, of course, that the Congress can change the rules any time it wishes, so that these 'rights' are not rights at all, but if you decide to continue to work your responsibilities to continue to pay taxes will, of course, remain." In all candor, I think that the government official who wrote, or approved, the booklet given us 1974 retirees really expected (as we did) that the government would comply with its promises.

In 1975 I received several offers to return to the ranks of the nation's employed. One of those was from the University of Wisconsin-Eau Claire. Although the monthly compensation for a beginning faculty member was substantially less than the monthly compensation in certain other fields for which I was considered competent, the factor which caused me to accept the University's offer was that they promised <u>not</u> to ask me to teach Summer School. Thus, my contract was for <u>nine</u> months of work, for <u>nine</u> months of compensation, both the University and myself having confidence that the United States government would keep the promise clearly and unequivocally made in SSA-73-10077.

In 1978, in accordance with one of my "obligations", I notified the Great Lakes Program Service Center that I would not be employed during June, July, and August, and requested that my checks be deposited in my bank. In reply, I received an unsigned letter, dated May 11, 1978, saying, in significant part:

> "There have been recent changes in the social security law... One of those changes is that we can no longer pay you benefits for months in which you do not work."

During 1978 I paid in some $900+ in Social Security taxes, and in 1979 more than $1,000, both matched by my employer. In those two years I knowingly forfeited some $400+ a month for 9 months of each year, which I could have received had I elected to remain a peaceful and complacent Senior Citizen and stay "retired". However, because of my decision to return to covered employment -- as seemed to be encouraged by the little blue booklet -- I am now inferentially accused of "abusing the Social Security system", and as punishment deprived of the monthly benefits, three months a year, promised in writing.

Some of the bureaucrats connected with the Social Security Administration have attempted to explain this by saying that it is a "social" program (even though it has posed for years as a form of "insurance") and that not paying the benefits promised me is not important because Social Security has paid other people more than promised them.

As far as I am concerned, an "explanation" of this sort only makes the matter worse, for it introduces the element of discrimination.

In recent months I have heard both federal office holders and those aspiring to such offices attempt to sooth present Social Security taxpayers by assuring them that they will be certain to receive the Social Security benefits promised them. Why is a promise to 1980 taxpayers of more certainty of fullfilment than a promise to a citizen who paid taxes from 1937 through 1979, but who was denied the benefits promised him for 1978 and 1979?

I am not writing solely, nor even especially, for myself for I have survived -- even though a default of some $1,200, plus interest, in both 1978 and 1979, has the same effect as if any common debtor had defaulted on his obligation. What is more important is the effect of this retroactive change in the law on the credit, and credibility, of the United States government. When the word gets out -- as it most assuredly will, unless this situation is corrected -- the effect on current Social Security taxpayers could be serious, indeed.

It is my understanding that H.R.5295 would correct the gross inequity I have outlined, and would restore the benefits denied unilaterally by retroactive application of the 1977 amendments. I sincerely urge the unanimous endorsement of this legislation, without amendment, as was accomplished in the House of Representatives.

Respectfully,

Harold W. Baird

Lecturer, Emeritus (Retired 12/31/79)
School of Business

JOHN F. CERNY
1620 Green View Drive
Brookfield, Wisc. 53005

February 13, 1980

Senator Gaylord Nelson
221 Russell Office Building
Washington, D. C. 20510

Dear Senator Nelson:

H.R. 5295, a bill to restore social security benefits for certain retired CPA's and other retired professionals, was passed by the House of Representatives on 12/19/79 by a vote of 389-0. This bill corrects the inequities for certain categories of retirees who had retained a debt or equity interest in their firms, or who were receiving various work in progress payments.

The bill has been referred to the Senate Finance Committee. Please make every effort to have this legislation passed by the Senate.

Sincerely,

John F. Cerny

The Prudential
Insurance Company
of America

1421 So. ALICIA DR.
APPLETON, WI. 54911

Prudential

1-15-80

Senator Gaylord Nelson
221 Russell
Senate Office Bldg.
Washington, D.C. 20510

Dear Senator - Re: H.R. 5295 Soc Sec Ret Bill

As You Know H.R. 5295 passed the House without a dissenting vote. It now goes to the Senate. They are taking enough away from us now without taking Soc. Sec. too. I have worked all these years believing Soc Sec would not be taken away when I retired and received my re-newals & servis commisions.

Please vote for H.R. 5295. Soc Sec. Retirement Test.

Cordially,

Howard J. Krabb

HOWARD J. KRABB
1421 S. ALICIA DR.
APPLETON, WIS.
54911

Topic 1 _____

Topic 2 _____ Subtopic 2 _____

Topic 3 _____ Subtopic 3 _____

Profession Codes(s) _____

Enclosure (Y) (N) NO

TICKLER ___New (Y) Subject: _____

✓ None (N) Ref. To: _____

___Close (N) Due Date: _____

___Update (N)

George J. Hulka / General Agent
N61 W6321 Turner Street
Cedarburg, Wisconsin 53012
377 3560

THE OLD LINE LIFE INSURANCE COMPANY
A UNILIFE COMPANY

September 12, 1979

The Honorable Gaylord A. Nelson
United States Senate
Washington DC 20510

Honorable Sir:

Reference is made to HR333 which may soon be out of Committee and before Congress for consideration.

Adoption of this bill would alleviate the impact of Social Security retirement regulations on self employed life insurance sales people.

I and a similar class of self employed individuals all across the country urge passage of Congressman Jacob's bill (HR333).

Thank you for the consideration.

Very truly yours,

George J. Hulka

GJH/dw

Harvey J. Klafter

Unio Mutual President's Club 1979

February 4, 1980

United States Senator Gaylord Nelson
Senate Office Building
Washington, D. C. 20510

Dear Senator Nelson:

On November 13, 1979, I wrote to you regarding the Social Security Retirement Test Rules Bill (H.R. 5295). It is my understanding that on December 19, 1979, the U. S. House of Representatives passed the changes 383-0 and that the bill now goes to the Senate for its consideration. Since you are Chairman of the Senate Social Security subcommittee, I urge your support in the passage of this bill which would correct the injustice that would be done to insurance agents who have paid into the Social Security system for years and who would need the retirement benefits they planned on receiving.

I would appreciate hearing from you on the status of this bill and how you personally feel on this matter so vital to so many.

Sincerely,

Harvey J. Klafter

HJK:ea

Standard. INSURANCE COMPANY

FRED L. HANSON
AGENT
P. O. BOX 4068
TUMWATER, WA 98501
(206) 456-6131

LEADERS CLUB
MEDALLION CLUB
MEDALLION MASTER CLUB
NATIONAL QUALITY AWARD
GRADUATE LIFE UNDERWRITER TRAINING COUNCIL
ACHIEVEMENT CLUB

February 15, 1980

The Honorable Gaylord Nelson,

I would like to take this opportunity to thank you for your recognition of the problem which was created by the revised Retirement Test of 1977 for the retired individuals who recieve deferred income.

I encourage your present position and continued support on this issue.

Sincerely,

Fred L. Hanson

FLH;dm

Feb. 23, 1981

Senator Gaylord Nelson
U.S. Senate
Washington, D.C. 20510

Dear Senator Nelson:

As one of your constituents and a member of AARP, I am asking you to support H.R. 5295.

I am glad to know of your opposition to the attempt to cut SS benefits. It is hard to believe anyone would even propose anything as unfair as that.

Thanking you for your help, I am

Yours very truly,

Lucile Schubring
P.O. Box 33
Cameron, Wis 54822

February 16, 1980

Senator Gaylord Nelson
U. S. Senate
Washington, D. C. 20510

Dear Senator Nelson:

Thank you for your stand on the proposal to tax Social Security benefits. I agree that it would be unfair and unjust to subject any portion of these benefits to federal taxation.

Furthermore, I understand legislation to correct problems caused by the abolition of the monthly earnings test is pending before the Senate Finance Committee. The abolition of the monthly earings test is confiscatory, to say the least. Take the case of one who earned $2000 more than the maximum allowed by Social Security. Of that $2000 one immediately loses $1000 because of the penalties from Social Security. In addition one must pay federal and state income taxes on that $2000 plus also pay a Social Security tax on that amount. That certainly leaves very little of th e $2000 earned. This monthly earnings test removes all incentive to work more than a minimum amount w ich certainly is not th e American way. And one certainly must supplem nt his income over that received from Social Security because of the high and ever present inflation. I strongly feel that the monthly earnings test should be restored in its original form. It is not possible but I would like to see th e change made such that it is retroactive to th e date of its abolishment so that all penalties would be paid back to the individual.

Thank you for your consideration of this matter.

L. Kraein

L. Kraein
Box 4
Cambridge, Wis 53523

LESTER W. MUEHR
MANUFACTURERS' REPRESENTATIVE
POST OFFICE BOX 204
RACINE, WISCONSIN 53401
PHONE: 414-637-4780

February 13, 1980

Congressman Les Aspin
Senator Gaylord Nelson
Senator Wm. Proxmire

Gentlemen:

Regarding the 1977 Social Security Amendments, the elimination of the monthly retirement test is unjust for the self emloyed people (such as myself) who actually do not render substantial services in their business when their net self employment income exceeds the yearly allowable earnings.

I would appreciate it if you would look into these 1977 amendments and make an effort to introduce new amendments which would change the law back to its origional Status Quo. Thank you all.

Sincerely,

Lester W. Muehr

Lester W. Muehr

RUSSELL H. SWEARINGEN, CLU
SENIOR NYLIC — LIFE MEMBER OF CLUBS
NATIONAL QUALITY AWARD

32 SOUTH WATER STREET WEST .... FORT ATKINSON, WISCONSIN 53538
BUS: (414) 563-5656 - RES: (414) 563-5364

NEW YORK LIFE INSURANCE COMPANY

LIFE, HEALTH, DISABILITY, GROUP
INSURANCE, ANNUITIES, PENSION PLANS

February 12, 1980

Honorable Gaylord Nelson
Senate Office Building
Washington D. C. 20515

Re: The Social Security Retirement Test
H. R. 5295

Dear Sir:

The above numbered Bill recently passed the House by an overwhelming 333-0 vote.

It is very unfair to treat renewal commissions as current earned income. This discriminates against those self-employed life insurance agents who wish to retire and draw Social Security Benefits. Under existing law those benefits are reduced because renewal commissions (payment for past sales) are treated as current income, rather than income previously earned, which is what renewal commissions really are.

I urge you to vote yes and support this legislation.

Very sincerely,

Russell H. Swearingen

Russell H. Swearingen, CLU
Field Underwriter

RS/m

R. S. HAMMERSCHLAG & COMPANY: INSURANCE

1840 NORTH FARWELL AVENUE • MILWAUKEE, WISCONSIN 53202 • TEL: 276-6295 (414)

February 5, 1980

United States Senator Gaylord Nelson
Senate Office Building
Washington, D.C. 20510

Dear Senator Nelson:

On November 13, 1979, I wrote to you regarding the Social Security Retirement Test Rules Bill (H.R. 5295). It is my understanding that on December 19, 1979, the U. S. House of Representatives passed the changes 383-0 and that the bill now goes to the Senate for its consideration. Since you are Chairman of the Senate Social Security subcommittee, I urge your support in the passage of this bill which would correct the injustice that would be done to insurance agents who have paid into the Social Security system for years and who would need the retirement benefits they planned on receiving.

I would appreciate hearing from you on the status of this bill and how you personally feel on this matter so vital to so many.

Sincerely,

Gordon H. Herwig
Manager, Life Department

GHH:ds

THE PROTECTIVE GROUP
Marvin E. Becker
STAFF MANAGER
BOX 506 MERTON, WISCONSIN 53056 PHONE: 538-1583
PROTECTION SECURITY SERVICE

January 21, 1980

U. S. Senator Gaylord Nelson
U. S. Senate
Washington, D. C. 20510

Dear Senator Nelson:

I am sure that you are well aware that the House passed H. R. 5295 on Dec. 19th, by a vote of 382 yeas to 0 nays.
I am asking for your support in the passing of this legislation when it reaches the Senate.

In my estimation, in todays era of Inflation, it is avery unfair element to have a retired Insurance man's or ladie's Social Security benefit decreased because of an income from a renewal account that was earned and established by efforts prior to age 65. In my estimation that income from this source should be treated the same as rental income from a prior investment such as apartments, houses, etc.

Your support and the support of all your fellow Senators behind this legislation will erase this inequity.
Thank You:

Sincerely,

Marvin E. Becker

Marvin E. Becker
28474 Huntington St.
Merton, Wi.
53056

AWKINS, ASH, BAPTIE & COMPANY
ERTIFIED PUBLIC ACCOUNTANTS

99 MILWAUKEE STREET
POST OFFICE BOX 1508
LA CROSSE, WISCONSIN 54601
TELEPHONE 784-7737 AREA CODE 608

February 26, 1980

Honorable Gaylord Nelson
221 Russell
Senate Office Building
Washington, D.C. 20510

Dear Senator Nelson:

It is my understanding that H.R. 5925 which passed the House in December is now pending in the Senate Finance Committee. Passage of this bill is vital to the welfare of many retired or retiring professionals and we are most interested in its progress. Has this bill come before the Senate Social Security Subcommittee? Could you give some indication of how it is likely to proceed through the Senate and its prospects for passage during this session? I am told that the vote in the House was 389 - 0. Is it likely that the Senate would pass it quickly if no opposition develops?

Sincerely,

Richard G. Hawkins

RGH/jw

Mary Louise Dixon
821 East Kensington Blvd., Apt. 4
Milwaukee, Wisconsin 53211

Dear Sen. Nelson,

I am writing to you to urge you to support H.R. 5295 as I was one of the victims of the abolition of the Minimum Earnings. The Law was sprung on us without warning. I retired from teaching in June of of 77 and knew our Milwaukee Social Security Office could be of little help because they had little knowledge & knew nothing about the law.

I gave my notice of my retirement in Jan of 77 as by then the School Board already had hired a replacement for me. If I'd been aware of the law, I would have continued to teach until June of 78 and saved several thousand dollars which I did not.

I am also a [illegible]

Senator Gaylord Nelson

Dear Sir:

Please support H.R. 5295. I'm a retired teacher and these pensions are not large in Wisconsin. I understand this law would correct some of the problems which caused a loss to retired teachers.

Very truly yours,

Janice E. Curtis
Rt. 4
Platteville
Wis.

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