

Social Security Amendments of 1977: Legislative History and Summary of Provisions

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This article describes the legislative history of the Social Security Amendments of 1977 and contains a summary of the amendments. The major provisions revise the benefit structure so that future replacement rates—initial benefits as a percent of previous earnings—will be relatively stable and revise the tax structure to restore the financial soundness of the program in the short range and into the 21st century. Other significant provisions include: An increased special minimum benefit for long-term workers with future automatic adjustment to prices, a minimum benefit frozen at the December 1978 level (roughly \$121) with automatic adjustment only for those on the rolls, a higher retirement test exempt amount for beneficiaries aged 65 and over, an annual measure of "quarter of coverage" and other changes in annual wage reporting provisions, and authorization for agreements with foreign countries for limited coordination between social security systems.

ON DECEMBER 20, 1977, President Carter signed into law H R 9346 (Public Law 95-216), the Social Security Amendments of 1977. The presidential statement issued upon the signing of the bill stated that its provisions "are tremendous achievements and represent the most important social security legislation since the program was established."

The 1977 amendments reaffirm the basic principles and goals of the social security program. The amendments make future benefits and costs much more predictable and restore the financial soundness of the program into the 21st century. The annual old-age, survivors, and disability insurance (OASDI) deficits projected under earlier law, based on the economic and demographic assumptions in the 1977 Reports of the Boards of Trustees, are eliminated beginning in 1980 and the long-range (75-year) deficit is reduced from more than 8 percent to less than 1½ percent of taxable payroll.

The provisions with the most far-reaching impact are

1 A revision of the benefit structure—"decoupling"—that stabilizes future replacement rates (initial benefit amount as a percentage of covered earnings). This change is designed to prevent replacement rates from rising as projected under previous law and to assure that social security benefit protection will keep pace with increases in wage levels during a person's working lifetime and with increases in the cost of living, as measured by the Consumer Price Index (CPI) thereafter.

2 An increase from \$180 to \$230 in the highest special benefit for long-term, low-paid workers with future automatic adjustment for CPI increases and a freezing of the initial minimum benefit at December 1978 levels (roughly \$121).

3 An increase in the exempt amount under the retirement test for beneficiaries aged 65 and over to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, and \$6,000 in 1982, with automatic adjustment to increases in average wages thereafter, and, in 1982, a reduction from 72 to 70 in the age at which the test no longer applies.

4 A reduction in spouse's and surviving spouse's benefits under the social security program by the amount of a pension based on the spouse's own earnings in noncovered public (Federal, State, or local) government employment.

5 A simplified annual wage reporting system under which quarters of coverage will be determined on an annual basis, with one quarter of coverage being earned for each \$250 in annual earnings in 1978 (subject to a maximum of four quarters of coverage for a calendar year). After 1978, the \$250 amount will be automatically adjusted for future increases in wages.

6 Authorization for the United States to enter into bilateral (totalization) agreements with foreign countries for limited coordination between social security systems.

7 Increases in the contribution and benefit base and a revised contribution rate schedule. Under the amended program the projected 1978 and 1979 annual deficits in the cash benefits program are substantially reduced and annual income is expected to exceed expenditures beginning in 1980 and continuing into the next century.

Changes have also been made that affect the Federal-State program of aid to families with dependent children (AFDC): (1) Additional Federal funding of State and local welfare costs for 1978; (2) financial incentives to encourage States to reduce AFDC error rates; (3) a requirement that States request and use Social Security

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WITH THE SIGNING of the Social Security Amendments of 1977 into law, the Congress and the President have assured the financial soundness of the social security program for the next 50 years. The amendments reduce the projected trust-fund deficits for 1978 and 1979 and provide for an excess of income over outgo beginning in 1980. Moreover, the long term deficit will be reduced from 8 percent of taxable payroll to about 1½ percent, a truly significant achievement.

More than half the long-range deficit is solved by the "decoupling" provisions of the amendments. These provisions will prevent replacement rates from rising as had been projected under the old law and also assure that benefit protection will generally rise proportionately with increases in wages during a person's working years and, as before, with increases in the cost of living thereafter.

The new legislation does not call for any additional social security taxes before 1979, the wage-base and tax-rate increases in 1978 were scheduled under the old law. In 1979 a worker earning \$10,000 a year will pay \$8 more in taxes than under the old law, and a \$20,000 a year worker will pay \$82.55 more. The tax rates for later years have been increased, and the wage base for 1979 and later will be higher than would have occurred under the old law. Those workers who will pay higher social security contributions because of the wage-base increase will also get higher benefits in the future.

The 1977 amendments reflect continuing concern about such issues as equal treatment of men and women, universal coverage, the relationships between public and private pension programs, and general revenue financing. The amendments extend the reporting date of the statutory Advisory Council on Social Security, establish an independent bipartisan National Commission on Social Security, and call for major studies on universal coverage and elimination of sex discrimination.

The Social Security Administration faces a major task in implementing the new legislation. Once again, the Social Security Administration must meet the challenges of paying benefits promptly and efficiently and of informing workers and beneficiaries of their rights and responsibilities under the new law.

It seems to me that, given the need for additional social security financing, the legislation passed by the Congress and signed by the President is sound and equitable. Most important, it should serve to reassure both beneficiaries and workers by putting to rest the predictions about the imminent bankruptcy of the social security system. All Americans can be assured that the social security system is sound and will remain so.

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Administration data on earnings, and (4) temporary expansion of authority for State demonstration projects designed to encourage projects to find ways to make employment more attractive to assistance recipients.

Background and Legislative History

The enactment of the 1977 amendments was a culmination of an extended period of national debate on alternative ways to restore the financial integrity of the social security program. In 1973, when the Congress last enacted social security benefit and financing legislation, the program was estimated to be soundly financed in the short range and over the long-range future. Since 1973, however, adverse experience led to annual excesses of outgo over income and projections showing a substantial long-range deficit.

Beginning in 1975, annual outgo from the OASDI trust funds exceeded annual income and the deficits were expected to grow in the future. The disability fund was expected to be depleted by early 1979 and the OASI fund in the early 1980's. The projected deficits were caused by higher-than-anticipated rates of inflation, disability incidence, and unemployment.

In 1977, the program was estimated to have a long-range average annual deficit of 8.2 percent of taxable payroll. This long-range deficit was the result of recent and current economic experience, a lower fertility-rate assumption that results in a higher ratio of beneficiaries to workers in the next century than had previously been projected, revised long-range economic assumptions under which replacement rates in the future would have increased significantly, and continued increases in disability incidence rates.

In addition, throughout this period there was growing concern over the equal treatment of men and women under social security, the retirement test, and the lack of mandatory social security coverage of Federal, State, and local government employees. The latter concern was aggravated by threatened withdrawals from coverage by State and local governmental groups, which would have resulted in a further deterioration of the financial status of the program.

Thus, major concerns of the Congress, policy analysts, and the public generally over the past

few years have centered on financing, changes in the provisions for keeping the social security benefit structure up to date with economic changes, equal rights for men and women, the retirement test, coverage, and the disability insurance program

The first five of these areas were studied in depth by the 1975 Advisory Council on Social Security, which conducted a broad review of the program (The Council thought that it did not have time to fully study the disability insurance program—an area that has been, and remains, under review within the Carter Administration. The social security subcommittees of both the House Ways and Means Committee and the Senate Finance Committee have indicated that they intend to consider this area further in 1978.)

The major recommendations of the Council, submitted to the Secretary and the Congress in March 1975, included

- (a) Decoupling the benefit structure, based on wage indexing and designed to assure that initial benefits for future retirees would keep up to date with wages during working years and with prices thereafter.
- (b) offsetting of social security dependent and survivor benefits by the amount of any pension the person earned in noncovered employment (similar to the "dual entitlement" provisions in the law) and elimination of gender-based distinctions in the law,
- (c) universal compulsory coverage under the social security program,
- (d) modifications of the provisions for withholding benefits under the retirement test, and
- (e) additional financing for the OASDI part of the system by shifting scheduled hospital insurance (HI) taxes to OASDI and using general revenues in the HI program to make up for the loss in contribution income in that program

The Ford Administration took the position in 1975 that further study of decoupling and long-range financing was required

In January 1976, President Ford—in his State of the Union Message and his Budget Message—outlined his plan to eliminate projected short-range trust-fund deficits and to prevent replacement rates from rising in the future. The major elements of that plan were decoupling, along the lines recommended by the 1975 Advisory Council, and an increase in the tax rate of 0.3 percent each for employees and employers effective 1977. The social security subcommittee of the House Committee on Ways and Means held public hearings in early February at which the Secretary of

Health, Education, and Welfare testified concerning the broad outlines of the proposals

On June 17, 1976, the Ford Administration's decoupling proposal was submitted to Congress and was introduced by Representative James A. Burke (D, Mass.), chairman of the social security subcommittee of the House Ways and Means Committee. H.R. 14430, the "Social Security Benefit Indexing Act of 1976," would have stabilized social security replacement rates and reduced the projected long-range average deficit roughly by half

The major features of H.R. 14430 were

- wage indexing of earnings through the second year before the year of entitlement to retirement benefits, disability, or death
- a new benefit formula that would approximate the benefit levels under present law at implementation and stabilize future replacement rates
- a 10 year transitional guarantee that benefits would be no lower at implementation than benefits under the previous law

Hearings on decoupling were held by the Burke social security subcommittee in June and July at which Administration officials, Members of Congress, and the public testified. The subcommittee held markup sessions on the proposal in early August, but no further action was taken in the 94th Congress

The subcommittee also held hearings on other social security matters during 1976. The areas considered included compulsory social security coverage for public employees and employees of nonprofit organizations, the disability insurance program, and the Administration's proposal to permit bilateral (totalization) agreements with foreign countries to provide limited coordination of the social security systems of the two countries

PRESIDENT CARTER'S RECOMMENDATIONS TO CONGRESS

On May 9, 1977, President Carter announced his proposals to stabilize the social security benefit structure, eliminate gender-based distinctions, and reestablish the financial integrity of the system. The proposals were aimed at dealing with both the short- and long-term financing problems while holding down increases in social security tax rates

Benefit Recommendations

The President's proposals relating to the benefit provisions included the following changes

Decoupling—The Administration recommended that the social security benefit structure should be decoupled with future replacement rates stabilized at approximately the levels that were expected to prevail for workers retiring in January 1979. The decoupled benefit structure, like that recommended by the 1975 Social Security Advisory Council and by the Ford Administration in 1976, would be based upon indexing the worker's earnings and the benefit formula to changes in average wages so that benefit protection would rise with wages during working years and with the CPI after retirement, disablement, or death.

Gender-based distinctions—The Administration recommended a dependency test for all spouse's and surviving spouse's benefits based on a requirement that the spouse's income in the 3 years preceding the worker's retirement, disablement, or death must have been less than the worker's income. A number of other changes were proposed to eliminate remaining gender based distinctions in the social security law.

Financing Recommendations

The major elements of President Carter's financing recommendations included

- 1 Removing the ceiling on earnings subject to the employer tax in 1981, with interim step increases in the ceiling to \$23,400 in 1979 and \$37,500 in 1980
- 2 Increasing the contribution and benefit base for employees and the self-employed by \$600 in each of 4 years—1979, 1981, 1983, and 1985—in addition to increases resulting from regular automatic adjustments of the base as wages rise
- 3 Provision for "countercyclical" use of general revenues to make up for social security revenue losses attributable to unemployment rates above 6 percent in 1975-78
- 4 Shifting to OASDI part of the 1978 and 1981 HI tax-rate increases already scheduled in the law
- 5 Advancing to 1985 0.25 percent of the 1.0-percent OASDI tax-rate increase for employer and employee, each, that was scheduled to go into effect in 2011 and advancing the remaining 0.75 percent to 1990
- 6 Restoring the OASDI self-employment tax rate to one and one-half times the employee rate

The Administration's recommendations were designed to eliminate deficits in the near term by the use of countercyclical general revenues and the three-step elimination of the contribution and benefit base for employers. The proposals did

not include any early-year increases in the OASDI tax rates already scheduled in the law but did include tax-rate increases in 1985 and 1990 representing a rescheduling of the 1.0-percent increase for employers and employees, each, in the OASDI rate previously scheduled for 2011.

In addition, the decoupling provision was expected to cut the estimated long-term average deficit in half. The Administration's financing proposals were expected to eliminate near-term annual deficits and to reduce the long-range deficit further to about 2 percent of payroll.

ACTION IN THE HOUSE

On May 10, the social security subcommittee of the House Committee on Ways and Means began hearings on the President's social security proposals with testimony from the Secretary of Health, Education, and Welfare, Joseph A. Califano, Jr. In his testimony, Secretary Califano noted that "the Social Security System has been one of the great successes of American government," and the Administration's proposal will "restore it to its proper place—a government program on which all our citizens can rely."

Legislation that embodied the Administration's proposals was submitted to the Congress on July 11, 1977, and introduced, as H.R. 8218, the following day by Representative James A. Burke (D, Mass.), chairman of the social security subcommittee.¹ The subcommittee held public hearings over the following 2 weeks at which Members of Congress, the public, and representatives of interested organizations testified on the provisions in H.R. 8218 and other proposals.

On July 29, the subcommittee met to plan further work on the social security financing and decoupling legislation. (They also ordered reported H.R. 5723, which dealt with the status of certain administrative law judges, and H.R. 8490, which dealt with past social security tax liabilities of certain nonprofit organizations.)

The subcommittee considered taking a "quick fix" approach to the near-term financial deficits

¹ A companion bill, S. 1902, was introduced in the Senate on July 21 by Senator Gaylord Nelson (D, Wis.), chairman of the social security subcommittee of the Senate Finance Committee.

and deferring action on the long-range financing and decoupling provisions of H R 8218 until 1978. The latter provisions were considered by some to be so controversial that it might not be possible to reach agreement in the 1977 session, especially in view of the tight congressional schedule and plans for final adjournment in mid-October.

Representative Al Ullman (D, Ore.), Chairman of the Committee on Ways and Means, outlined a possible proposal to deal with the short-range financing problem by (1) A tax-rate increase of 0.2 percent each for employers and employees (and a readjustment in the tax rate for the self-employed to one and one-half times the employee rate), (2) an increase in the wage base of \$500 above the automatic increases each year 1978 through 1982; (3) an allocation of funds from the HI trust fund to the OASI and DI trust funds so that all three were maintained at roughly equal reserve ratios in the short term, and (4) a standby general revenue loan guarantee. The subcommittee concluded, however, that enactment of comprehensive legislation was possible in 1977. The "markup" sessions on H R 8218 were scheduled for September 12, the earliest available date following the August recess.

The subcommittee began markup sessions on H R 8218 as scheduled. Within 2 weeks, the subcommittee reviewed and approved proposals that included elements of both the Administration's proposals in H R 8218 and the "Republican Alternative," a comprehensive package proposed by minority members of the social security subcommittee. (Major features of the latter plan included wage-indexed decoupling, with replacement rates about 10 percent lower than anticipated for 1979, an increase in the special minimum benefit with the regular minimum frozen, a gradual increase from 65 to 68 in the age of eligibility for full benefits, elimination of the retirement test, coverage of Federal employees, and financing based on rate increases, with no base increases.)

The subcommittee's recommendations, reported to the full Committee on September 22, included

1 The Administration's decoupling proposal in H R 8218, with the following modifications

—indexing a worker's earnings and the benefit formula to reflect annual increases in average wage levels up to the second year before eligibility

(age 62 disability, or death) instead of before retirement (entitlement)

—increasing the delayed retirement credit from 1 percent a year to 3 percent for persons under the new decoupled system

—stabilizing replacement rates at approximately 5 percent below estimated January 1979 benefit levels

—guaranteeing for 10 (rather than 5) years that retirement benefits would not be lower than benefits under present law as of December 1978

2 An increase in the maximum special benefit for long-term, low paid workers from \$180 to \$230 to take account of increases in other benefits since 1974 when it was last adjusted, with future automatic adjustments as the CPI increases. The minimum benefit for future beneficiaries was to be frozen as of December 1978 (roughly \$121), just before implementation of decoupling. The minimum was to be adjusted for cost-of-living increases only after the worker dies or becomes eligible for benefits.

3 The dependency test proposal in H R 8218 was not adopted. Instead, provision was made for a 6-month study of proposals to eliminate dependency as a factor in determining entitlement to spouse's benefits and to guarantee equal treatment of men and women under the social security program. In addition, the minor provisions included in H R 8218 to eliminate gender-based differences for men and women were included in the subcommittee bill.

4 Two other proposals affecting the treatment of women under OASDI were adopted. A shortening of the duration-of-marriage requirement for aged divorced spouse's benefits from 20 years to 5, and a provision that marriage or remarriage would not affect dependent's or survivor's benefits. (These proposals had also been included in the "Republican Alternative.")

5 Mandatory coverage, effective in 1980, would be extended to Federal, State, and local government employment and employment by nonprofit organizations. Effective immediately, State and local governments and nonprofit organizations would no longer be able to withdraw from social security coverage.

6 The retirement test exempt amount would be increased to \$4,500 in 1978 and to \$5,000 in 1979 for beneficiaries aged 65 and over.

7 Changes in financing provisions

a Increases in the contribution and benefit base for workers and for employers so that approximately 90 percent of payroll in covered employment would be taxed—\$20,900 in 1979, \$24,400 in 1980, and \$27,900 in 1981, with automatic adjustment thereafter.

b In lieu of "countercyclical" general revenues, standby authority for loans from general revenues to the OASDI trust funds whenever the assets of a fund at the end of a year drop below 25 percent of outgo for that year, with automatic repayment of loans when assets in a fund at the end of a year reach 40 percent of that year's outgo from that fund.

c A shift of part of the scheduled III tax rate increases for years after 1977 to OASDI and an adjustment of the tax rates so that the "ultimate"

OASDHI rate for 1990 and after would be 7.45 percent each for employees and employers

d Reestablishment of the self-employment OASDI tax rate at one and one-half times the employee rate

8 Other proposals recommended by the Administration in legislation other than H.R. 8218

a Elimination of the monthly measure of retirement for years after the year of retirement

b Simplification of the annual reporting provisions by determining quarters of coverage on an annual basis. For 1978, a worker would get a quarter of coverage (up to four in a year) for each \$250 of annual earnings. The \$250 measure would be automatically adjusted to increases in average wages.

c A limitation on retroactive benefits so that, except where disability-related or unreduced dependents' benefits were payable, monthly benefits would not be paid for months before the month an application is filed if permanently reduced benefits would result.

d A provision to exclude from coverage the distributive share of income or loss of a partnership received by a limited partner who does not perform any services for the partnership.

The subcommittee recommendations were introduced by Chairman Ullman on September 27, 1977, and referred as H.R. 9346 to the House Ways and Means Committee. The Committee began markup sessions the next day and further considered the legislation in the following week.

The most controversial issues during the markup sessions were mandatory universal coverage, the retirement test, the general-revenue loan guarantee, and the increases in the contribution and benefit base. A major concern the committee faced was the need to make up for the loss of program income in the near term that would result if, as proposed by Representative Joseph Fisher (D, Va.), universal coverage was dropped or deferred to a later year.

H.R. 9346 as amended by the Committee and reported to the House on October 12 reflected the following major changes from the subcommittee bill:

1 Extended mandatory social security coverage to Federal, State, and local employment and employment for nonprofit organizations effective 1982 (instead of 1980) and provided for a study by the Department of Health, Education, and Welfare and the Civil Service Commission to provide recommendations on how best to coordinate the Federal civil service retirement system and the social security program.

2 Increased the retirement test exempt amount to \$4,000 in 1978 and \$4,500 (instead of \$5,000) in 1979 for beneficiaries aged 65-71, and liberalized the test for beneficiaries abroad by providing that benefits would be payable for any month in which

the beneficiary works on less than 9 days in 1978 and 12 in 1979 and later.

3 Increased the contribution and benefit base beginning in 1978 (instead of 1979) to \$19,900 in 1978, \$22,900 in 1979, \$25,900 in 1980, and \$27,900 in 1981, with automatic adjustment to wages thereafter.

4 Modified the OASDI and HI tax rate schedules to reduce the HI trust fund deficit and to slightly improve the OASDI trust fund reserve ratios in relation to those under the subcommittee bill.

5 Revised the standby loan authority so that, if triggered, there would be an automatic temporary tax-rate increase of 0.10 percent, each, for employers and employees and of 0.15 percent for the self-employed under certain conditions.

The Committee bill included additional changes that (1) authorized the President to enter into bilateral agreements (known as totalization agreements) with other countries providing for limited coordination of the United States social security system and the systems of other countries, (2) applied the same actuarial reduction to cost-of-living increases for early retirees that applied to their initial monthly benefit,² (3) provided clergymen who previously elected to be exempt from social security coverage an opportunity to revoke their exemption, (4) modified certain State and local coverage provisions as they apply in Mississippi, New Jersey, and Wisconsin, (5) validated erroneous wage reports for certain Illinois policemen and firemen who are not covered under the social security program, (6) provided that increases in the contribution and benefit base would not increase the employer tax liability or benefits under tier II of the railroad retirement system, which supplement the tier-I payments corresponding to basic social security benefits, and (7) tied the maximum amount of pension insured by the Pension Benefit Guaranty Corporation to the social security earnings base as if it were increased automatically, without regard to the ad hoc increases.

Before consideration by the House Committee on Rules, H.R. 9346 as reported by the Ways and Means Committee was referred to the Post Office and Civil Service Committee, which has jurisdiction over the Federal civil service retirement system. On October 13, the latter Committee ordered H.R. 9346 reported with an amendment to substitute a 2-year study to review the feasibility

²These two provisions had previously been recommended by the Administration.

bility and advisability of extending social security coverage to Federal employment for the provision for mandatory coverage of Federal employees

Since the Committee members had been closely divided on a number of major issues, it was agreed that H R 9346 as reported by the Committee should be considered on the House floor under a rule that specified that a limited number of floor amendments would be in order. These amendments were to be financially self-contained, to the extent possible, to assure that floor action would not substantially alter the financial status of the program under the bill as reported by the Committee. (Generally, in the past, social security legislation went to the House floor under a closed rule that allowed for a single motion to recommit and otherwise required that the legislative package be adopted or rejected as a whole.)

On October 18, the Rules Committee agreed to the "modified open" rule for the House floor debate as requested by the Committee on Ways and Means. The rule allowed for the offering of the Post Office and Civil Service Committee amendment and eight other amendments that had been given earlier consent by the Ways and Means Committee, including a substitute for the Post Office and Civil Service Committee amendment.

The House floor debate on H R 9346 began on October 26. The following floor amendments were considered and agreed to:

1 Deletion of the provisions that would have (a) extended social security coverage to employees of Federal, State, and local governments and non-profit organizations and (b) prohibited State and local government groups and employees of nonprofit organizations from "opting out" of the social security program. The resulting revenue would be balanced by an additional employee and employer tax rate increase of 0.1 percent, each, beginning in 1982 and an increase in the wage base to \$29,700 in 1981 (instead of \$27,900 as provided in the Committee bill). This amendment would also require joint studies by the Department of Health, Education, and Welfare, the Department of the Treasury, the Civil Service Commission, and the Office of Management and Budget on the feasibility and desirability of covering Federal, State, and local government employees.

2 An increase in the retirement test exempt amount to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, and \$5,500 in 1981 for beneficiaries aged 65-71. Beginning in 1982, the retirement test would be eliminated for such beneficiaries. An additional tax-rate increase of 0.1 percent, each, in 1982 would be provided to finance the amendment.

3 Creation of an independent bipartisan National

Commission on Social Security composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate—to make a broad study of the social security and related programs.

The House considered and rejected the following floor amendments: (1) A more gradual increase in the wage base and a larger increase in the tax rate than under the Committee bill; (2) elimination of the standby loan and repayment provisions from the bill; (3) elimination of the minimum benefit, effective in 1979; and (4) a motion to recommit with instructions to report back with amendments reflecting more of the "Republican Alternative" plan, including increased tax rates, no wage base increase, coverage of Federal employees in 1982, and deletion of standby loan authority.

Another amendment would have further increased the retirement test exempt amount, provided for a more gradual increase in the wage base, and increased tax rates beginning in 1978. This amendment was withdrawn.

On October 27, by a vote of 275 to 146, the House passed H R 9346. The bill was then sent to the Senate and placed on the calendar awaiting Senate Finance Committee action.

ACTION IN THE SENATE

Since social security legislation, like other revenue measures, must originate in the House of Representatives, the Senate Committee on Finance does not usually consider a major social security bill until the bill has been passed by the House, sent to the Senate, and referred to the Committee on Finance. In view of the urgency of this legislation, however, and the high priority placed upon it by the President, preliminary hearings and markup sessions on financing and decoupling were held in the summer and fall of 1977, even though no House-passed social security bill had been referred to the Senate Finance Committee.

In June and July, the Senate Finance Committee's social security subcommittee, chaired by Senator Gaylord Nelson (D, Wis.), held public hearings on social security financing and decoupling. On June 13, as lead witness for the Administration, Secretary Califano stressed the priority

accorded this legislation and the importance of final passage in 1977. He said that President Carter considered the bill a "most urgent piece of business before the Congress because of the tremendous concern of older Americans about the viability and integrity of the trust funds."

In late July (just before the August recess) and in early September, the Senate Finance Committee met to consider the effects of social security legislation on the Federal budget for fiscal year 1978. The meetings were held in anticipation of final congressional action to be completed by September 15 on the Second Budget Resolution,³ which would be binding upon Congress in terms of social security financing and benefits. These meetings served to bring together the thinking of the subcommittee and alternative approaches of other Finance Committee members.

By the end of September, the Senate Finance Committee made the following tentative decisions:

—decoupling with wage indexing and constant replacement rates at roughly January 1976 levels (about 2½ percent below anticipated January 1979 levels)

—short-range financing relying heavily on increasing the employer wage base to minimize near-term tax-rate increases (the tentative decision was to raise the employer base to \$100,000 in 1979 and to provide for four \$600 increases in the employee base, as in the Administration's proposal)

—long range financing that would eliminate any remaining deficit in the OASDI program and would not essentially change the financial condition of the HI program

—response to the Supreme Court decisions that found the "one-half support" test for husbands and widowers unconstitutional⁴—in the form of extending the dual entitlement provisions of law then in effect to apply with respect to government pensions based on an individual's own work in noncovered government employment

There was also growing interest in the 1977

³ Under 1974 legislation relating to congressional budget activities, any legislative proposals not included in the "Second Budget Resolution" would require a specific waiver of the Budget rules or it would be subject to a point of order on the Senate floor—a procedural impediment that could have blocked Senate action on a social security bill in 1977.

⁴ In 1977, in *Califano v. Goldfarb* and related cases, the Supreme Court declared unconstitutional the statutory requirement that a man had to show that he was dependent on his wife for purposes of qualifying for husband's and widower's benefits, although a woman was presumed dependent on her husband for purposes of wife's and widow's benefits.

enactment of certain AFDC amendments on the part of some Finance Committee members and concern in other quarters that action in this area might preempt consideration of other welfare legislation in the near future. Agreement was finally reached between the Administration and Senator Long (D, La.), Chairman of the Finance Committee, and Senator Moynihan (D, N.Y.), Chairman of the Finance Committee's Subcommittee on Public Assistance, on four AFDC amendments included in the Finance Committee bill: (1) Fiscal relief to States and localities for welfare costs in fiscal year 1978, (2) financial incentives for States to reduce errors, (3) requirement that States request and use Social Security Administration and State employment security agency wage-record information where needed for AFDC program administration, and (4) temporary expansion of authority for States to conduct demonstration projects intended to make employment more attractive to public assistance recipients.

A fifth AFDC amendment, which would have revised the earned-income "disregard" for AFDC recipients, was also included in the Committee bill.

As Senate Finance Committee markup sessions continued, increasing concern was also shown about the tentative decision to increase the employer base to \$100,000 in 1979. The Committee seemed about equally divided on the issue and considered alternatives that would have provided for increasing the base for employers by the same amount as the employee base (When the final vote was taken on November 1, such a proposal failed on a 9-9 vote, and a proposal to increase the employer base to \$50,000 in 1979 and \$75,000 in 1985, with no automatic adjustments until the employee base caught up, was adopted.) In mid-October, however, the Committee was reluctant to report a major financing provision on which the members were so evenly divided. They continued to meet in the hope of developing a compromise on which there would be widespread agreement.

Meanwhile, although H.R. 9346 had not yet been passed by the House, the Finance Committee had tentatively agreed that, if the House did act and if final Committee decisions were reached, the Committee amendments would be attached to H.R. 5322, a minor tariff bill that had originated in the House of Representatives, the substance of

which had already been enacted in other legislation H R 5322 was a convenient vehicle for putting the Senate Finance Committee proposals before the Senate promptly. When the House passed H R 9346 on October 27, the bill was not referred to the Senate Finance Committee. It was held at the desk and placed on the Senate calendar since the Committee expected to report H R 5322 promptly, which it did on November 1.

The OASDI provisions of H R 5322 that differed from the House-passed bill included the following provisions:

1 The decoupling provisions would be similar to the House bill but they would call for earnings replacement rates approximately 2½ percent lower than projected 1979 levels.

2 The employer wage base would be increased to \$50,000 in 1979 and to \$75,000 in 1985, it would not increase automatically until the employee base reached that level under automatic adjustment provisions. (Nonprofit State and local government employers would be reimbursed from general revenues for 50 percent of the increased employer social security tax resulting from the difference between the employer and employee wage bases.) The bill also provided for a reduction in employer tax liabilities where workers with earnings in excess of the employer base were concurrently employed by certain affiliated corporations.

3 The OASDHI tax rates would be increased beginning in 1979 and would reach an ultimate level, by the year 2011, of 7.8 percent for employers and employees, each.

4 The retirement test exempt amount would be increased to \$4,500 in 1978 and to \$6,000 in 1979. After 1979, the \$6,000 amount would increase as wage levels rise.

5 The worker's delayed retirement credit would be added to the widow's or widower's benefit.

6 The benefits of spouses and surviving spouses would be offset by the amount of any pension or annuity based on the spouse's earnings in noncovered Federal, State, or local government employment.

The Finance Committee bill also included provisions that were not in the House-passed bill but had been reported by the Ways and Means Committee earlier in 1977: (a) A modification in liabilities for back taxes for certain nonprofit employers and (b) the conversion of a number of "administrative law judge" positions from temporary to permanent status.

When H R 9346 as passed by the House came up for debate on the Senate floor on November 2-4, it was first amended by substituting the provisions of the Finance Committee bill (H R 5322)

for the House-passed provisions. It was then subject to further floor amendment. Although the Senate Finance Committee had obtained a waiver of the Budget Act requirements with respect to the Committee proposals, it was necessary for individual Senators to obtain waivers for specific floor amendments, a process that prolonged the Senate floor debate. Ultimately, parliamentary procedures were worked out and numerous amendments, some unrelated to the Social Security Act, were agreed to on the Senate floor.

Changes affecting the social security program included:

1 Lowering from 72 to 70 the age at which the retirement test no longer applies effective for taxable years ending after 1981 (a substitute for an amendment that would have eliminated the test at age 65, as in the House bill).

2 Freezing the minimum benefit at an amount equal to the minimum PIA in effect under existing law in December 1978. Benefits based on the minimum would be kept up to date with rising prices only after entitlement to benefits.

3 Automatically increasing benefits on a semiannual basis in times of rapid inflation.

4 Providing disability benefits for the blind, regardless of ability to work, based on six quarters of coverage and a more favorable computation procedure.

5 Eliminating the workmen's compensation offset for social security disability benefits.

6 Reducing the employer tax liability of State and local government and nonprofit employers to 90 percent of the tax liability under the law as amended by the bill (but not less than the 1979 liability). The Senate amendment would also authorize appropriations from general revenues to make up for the loss of social security tax revenues occurring as a result of enactment of the amendment.

During the Senate floor debate, an amendment, offered by Senator Curtis (R, Neb), to provide for equal increases in the wage base for employer and employee⁵—the issue on which the Finance Committee had been equally divided—was defeated by a vote of 47 to 46, with Vice President Mondale casting his first tie-breaking vote.

H R 9346 was passed by the Senate on November 4, by a vote of 42 to 25. The way was thus cleared for a House-Senate conference to resolve the differences between the House and Senate versions of the bill.

⁵The amendments would also have increased social security tax rates and produced a long-range actuarial balance of 0.04 percent of payroll.

HOUSE-SENATE CONFERENCE COMMITTEE

Senate conferees were appointed immediately upon passage of the bill in the Senate on November 4, but appointment of House conferees was delayed. On November 3, a motion for unanimous consent (necessary because the Senate had not yet passed the bill) to appoint House conferees was blocked. Since the House did not meet again for legislative business before the Thanksgiving recess, the House conferees were not appointed until November 30—and, then, only after the House rejected a motion to instruct the conferees to insist on the House retirement test provisions.

The conference committee, chaired by Senator Long, convened on December 1 and began deliberations on H R 9346. The conferees encountered difficulties in three areas—financing, AFDC, and a Senate floor amendment that would have provided an income-tax credit for certain college tuition costs and related expenses.

Areas of disagreement on financing included unequal employee and employer contribution and benefit bases, the use of general revenues, the HI program, and the long-range actuarial balance. Of these areas, HI financing proved to be the most difficult on which to reach agreement. Floor action in the House and Senate would have adversely affected the financial status of the HI program in relation to the treatment accorded by either the Finance Committee or the Ways and Means Committee. Moreover, some House conferees felt strongly that the financial status of the HI program should not be worsened as a result of the legislation. A compromise was ultimately adopted under which the long-range deficit in the HI program was reduced from 1.16 percent of taxable payroll to 1.01 percent.

The conferees were also unable to reach quick agreement on the public assistance amendments. With certain modifications the four AFDC amendments that the Administration had indicated it could accept were finally adopted, and the amendment relating to the AFDC earned-income disregard was not accepted. A modification reducing the amount of fiscal relief that the Senate bill would have provided was agreed to, with the understanding that additional fiscal relief might be provided under H R 7200—the welfare bill still pending in the Senate. This bill also includes the earned-income disregard provision.

On December 9, as the congressional session was drawing to a close, the social security conference stalled. The Senate conferees insisted on including the tuition tax-credit provision that had been added to the bill on the Senate floor, the House conferees strongly opposed its inclusion. The following week, the Senate conferees receded from their position, and the conference committee reported the bill on December 14.

H R 9346, as agreed to by the conferees, was passed by the Senate on December 15, 1977 (the final day of the first session of the 95th Congress) by a vote of 56 to 12 and later the same day by the House of Representatives by a vote of 189 to 163. On December 20, H R 9346 was signed by President Carter and became Public Law 95-216, the Social Security Amendments of 1977. The specific provisions of the final legislation are described below.

Summary of Major Provisions

MAJOR CASH BENEFIT PROVISIONS

Decoupling

Under the previous law, projections of future benefits for current workers were highly dependent on projections of future rates of increases in wages and prices and, as a result, replacement rates could increase more rapidly or more slowly than average wages in general. Under current economic projections, future replacement rates—benefits as a percentage of preretirement earnings—were expected to rise substantially faster than average wages in the future.

In order to stabilize replacement rates in the future, at levels 5 percent below the levels projected for 1979 under the earlier law, basic changes are made in the way the worker's average earnings and social security benefit amounts will be figured. The 5-percent reduction is designed to offset the unintended overadjustment of benefits since the adoption of automatic cost-of-living increases in 1972. A comparison of projected replacement rates for hypothetical workers aged 62 at different relative earnings levels under the old law and under the new law is shown in table 1.

As under the old law, benefits would be kept

TABLE 1 — Replacement rates¹ for hypothetical low, average, and maximum earnings,² 1980-2050, of a worker retiring at age 62 under old and new law

Year	Replacement rates (percent)					
	Low earners		Average earners		Maximum earners	
	Old law	New law	Old law	New law	Old law	New law
1980	56	55	44	43	34	27
1990	60	56	48	43	35	25
2000	75	56	52	43	39	27
2010	84	56	57	43	42	29
2020	91	56	60	43	44	29
2030	96	56	63	43	46	29
2040	101	56	66	43	47	29
2050	106	56	68	43	48	29

¹ Represents annual unreduced benefits as percent of previous year earnings
² The 1976 earnings levels of \$4,600 for low earners, \$9,200 for average earners, and \$15,300 for maximum earners are adjusted annually according to the intermediate assumptions used in the 1977 Trustees Report
³ Based on the 5 year transitional provision

up to date with increases in prices after a worker becomes eligible for benefits. The new method applies to those who reach age 62, become eligible for disability benefits, or die in 1979 or later.

Wage indexing of earnings—A worker's earnings will be updated (indexed) to the period immediately before the year the worker reaches age 62, becomes disabled, or dies and will reflect the increases in average wages that have occurred since the earnings were paid. The worker's earnings will be indexed by multiplying his actual earnings by the ratio of average wages in the second year before he reaches age 62, becomes disabled, or dies to the average wages in the year being updated. An example of wage indexing and benefit computations under the new law is shown in table 2.

Earnings after age 60 or disablement will be counted at actual dollar value—that is, unindexed—and substituted for earlier years of indexed earnings if they increase the worker's average indexed monthly earnings (AIME) and his benefit.

Computation period—No change has been made in the computation period. After the worker's earnings have been indexed, they will be averaged for the years after 1950 (or after age 21, if later) up to the year he reaches age 62, becomes disabled, or dies, whichever occurs first, with the 5 years of lowest indexed earnings or no earnings excluded (Pre-1951 earnings could be used only under "prior-law" computation provisions).

Benefit formula and maximum family benefit formula—The law establishes a benefit formula

for determining a worker's primary insurance amount (PIA) on the basis of his indexed earnings. The benefit formula reproduces roughly the same relative weighting as the old formula but the new formula will result in benefit levels that are approximately 5 percent lower than those that were expected to prevail under the old law for new retirees in January 1979.

The benefit formula for those reaching age 62 in 1979 is 90 percent of the first \$180 of AIME, plus 32 percent of AIME over \$180 and through \$1,085, plus 15 percent of AIME over \$1,085. The AIME dollar amounts in the formula will

TABLE 2 — Wage indexing and benefit computation for hypothetical earnings, 1951-78, of a worker retiring at age 62 in 1979¹

A WAGE INDEXING Shown below are annual earnings, average covered wages, the indexing factor (1977 average annual wages divided by average annual wage in each year), and the wage-indexed earnings (annual earnings times indexing factor).

Year	Annual earnings	Average annual covered wages ²	Indexing factor	Wage indexed earnings
1951	\$3,000	\$2,769	3.532	10,596
1952	2,900	2,945	3.321	9,631
1953	3,600	3,089	3.166	11,398
1954	3,600	3,226	3.031	10,912
1955	4,200	3,350	2.919	12,260
1956	4,200	3,540	2.762	11,600
1957	4,200	3,747	2.610	10,962
1958	4,000	3,852	2.539	10,156
1959	2,500	3,980	2.457	6,142
1960	4,800	4,148	2.358	11,318
1961	2,800	4,283	2.283	6,392
1962	4,800	4,461	2.192	10,522
1963	4,800	4,472	2.139	10,267
1964	4,800	4,712	2.075	9,960
1965	6,000	4,787	2.043	12,258
1966	4,000	4,997	1.907	7,612
1967	2,000	5,311	1.841	3,682
1968	7,000	5,683	1.721	12,047
1969	5,500	5,977	1.636	8,998
1970	7,200	6,288	1.555	11,196
1971	7,400	6,670	1.466	10,848
1972	7,250	7,250	1.349	9,712
1973	5,520	7,580	1.290	7,121
1974	6,000	8,031	1.218	7,308
1975	7,500	8,631	1.133	8,498
1976	8,000	9,226	1.060	8,480
1977	7,200	9,779	1.000	7,200
1978	8,100	10,000	1.000	8,100

B. BENEFIT COMPUTATION The worker's primary insurance amount (PIA) is then computed on the basis of his average indexed monthly earnings (AIME) as follows:

Total indexed earnings in highest 23 years	\$231,636.00
AIME (total earnings divided by number of months 23x12, or 276)	\$839
PIA under 1979 formula	90% x \$180 = \$162.00
	32% x (\$839 - \$180) = \$210.88
Age 62 PIA (rounded)	\$372.90

¹ The following benefit formula is to be applied to AIME: 90% of the first \$180 of AIME, plus 32% of the next \$905 of AIME, plus 15% of AIME above \$1,085.

² Average taxable wages in the first quarter of each year multiplied by 4. Data preliminary, subject to change when final data are published in the Federal Register later this year.

be adjusted automatically in the future as average wage levels rise to maintain the relative weighting in the formula and thereby maintain relatively constant replacement rates at different relative earnings levels. The formula for relating maximum family benefits to the PIA roughly maintains the relationship between the PIA and maximum family benefits that existed under the old law. This benefit formula will also be adjusted in the future as average wage levels rise.

Transition—Wage indexing, the new benefit formula, and the 5-percent reduction in replacement rate levels would result in higher benefits for some workers and lower benefits for others under the new computation procedures than under the law in effect at the time of implementation. To protect workers nearing retirement when decoupling is implemented, an individual who reaches age 62 after 1978 and before 1984 is guaranteed a retirement benefit no lower than the amount he would have received under the law as of December 1978. For purposes of this provision, the December 1978 benefit table will be frozen, but the worker's retirement benefit would be subject to all cost-of-living benefit increases beginning with age 62. The guarantee does not apply to disability and survivor benefits.

Effective date—The new benefit structure is effective for those who reach age 62, become eligible for disability benefits, or die in 1979 or later (The old law remains in effect for workers eligible before 1979.)

Delayed Retirement Credit

The delayed retirement credit is increased to 3 percent a year— $\frac{1}{4}$ of 1 percent a month—for workers reaching age 62 after 1978 (The credit of 1 percent a year under the old law— $\frac{1}{12}$ of 1 percent a month—will continue to apply to workers who reached age 62 before 1979.) In addition, those who received reduced benefits will be able to get the delayed retirement credit if they have non-payment months after reaching age 65. Since workers reaching age 62 in 1979 will not reach age 65 until 1982, this provision will have relatively little effect before 1983. The delayed retirement credit that a worker earns will also be payable to the surviving spouse effective for months after May 1978.

Special Minimum and Minimum Benefits

Special benefit for long-term, low-paid workers—Under the new law, the special benefit for long-term, low-paid workers is increased, effective January 1979, to take account of increases in benefits since March 1974 and will be automatically adjusted to cost-of-living increases in the future. The highest possible special benefit will be increased from \$180 to \$230 in 1979. Specifically, the new law provides that the special benefit will be equal to \$11.50 (instead of \$9.00) times the number of years above 10 and up to 30 in which a worker has earnings equal to or greater than one-fourth of the contribution and benefit base that would be effective without regard to these amendments.

Minimum benefit—The minimum benefit for future beneficiaries is frozen at an amount equal to the minimum benefit in effect in December 1978 (estimated to be about \$121). Benefits based on the minimum will be kept up to date with increases in the CPI beginning with the year the person becomes entitled to benefits. For this purpose, a person would be considered to become entitled to benefits in the year in which he or she first actually received a cash benefit or, if earlier, reached age 65.

Retirement Test

Annual exempt amount—The new law provides increases in the annual exempt amount for beneficiaries aged 65 and over to a level of \$6,000 for 1982, with automatic adjustment to average wage increases thereafter. No change was made in the exempt amount for workers under age 65. The annual exempt amounts are shown below.

Monthly measure—The monthly measure in the

Year	Exempt amount for beneficiaries—	
	Under age 65	Aged 65 or older
1977	\$3,000	\$3,000
1978	3,240	4,000
1979	3,480	4,500
1980	3,720	5,000
1981	3,960	5,500
1982	4,200	6,000

¹ Specified in law.

² Estimated under automatic adjustment provisions.

retirement test is eliminated for years after the initial year of retirement (Under the monthly measure, a beneficiary who did not earn over the monthly exemption—\$250 in 1977—or render substantial services in self-employment in a month received a benefit for that month regardless of the level of his annual earnings)

Applicable age—The age at which the retirement test no longer applies is lowered from 72 to 70, effective after 1981

OTHER BENEFIT PROVISIONS

Offset for Spouses With Other Government Pensions

Spouse's and surviving spouse's benefits under the social security program will be reduced by the amount of any government (Federal, State, or local) pension payable to the spouse based on his or her own earnings in noncovered employment. This provision is somewhat analogous to the provisions of present law under which a person's social security benefit as a dependent or survivor is generally reduced dollar-for-dollar by the amount of any social security benefit he or she earned as a worker in covered employment. The provision is effective for spouse's benefits based on applications filed in or after December 1977.

Under a transitional "exemption" clause, the offset provision does not apply to those who (a) become eligible for a pension from noncovered government employment before December 1982 and (b) at the time of application for social security benefits, could have qualified for spouse's or surviving spouse's benefits if the law as in effect and administered in January 1977 had remained in effect. Thus, this exception has the effect of continuing to apply a "one-half support" test to certain men. The law also provides that if the above exception is found invalid, the pension offset would be fully effective immediately.

Remarriage of Widows and Widowers

Effective with respect to benefits for months after December 1978, remarriage of a surviving spouse after age 60 will not reduce the amount

of widow's or widower's benefits. Under the old law, benefits for a widow or widower who remarried after age 60 were generally reduced to the larger of 50 percent of the deceased spouse's PIA or 50 percent of the new spouse's PIA.

Duration-of-Marriage Requirement

Effective for months after December 1978, the duration-of-marriage requirement for entitlement to benefits as an older divorced wife or surviving divorced wife has been lowered from 20 years to 10 years.

Actuarially Reduced Benefits

Under the automatic cost-of-living benefit increase provisions in the old law, persons with actuarially reduced benefits generally received automatic benefit increases that slightly exceeded the percentage increase in the cost of living. This situation occurred because the percentage increase was related not to the actual benefit amount but to the PIA. The new law modifies the cost-of-living increase mechanism so that beneficiaries receiving reduced benefits would receive benefit increases equal to the percentage increase in the CPI. The provision is effective for benefit increases after December 1977.

Retroactive Social Security Benefits

Under the old law, an application for actuarially reduced benefits, like any other application for social security benefits, was a valid application for any benefits payable for up to 12 months before the month in which the application was filed. Effective for applications filed on or after January 1, 1978, the new law eliminates retroactive benefits where permanently reduced benefits would result (except for disability-related benefits or when unreduced dependent's benefits are involved).

Disability Benefits for the Blind

A disabled blind person will not be considered to have engaged in substantial gainful activity

that would result in termination of benefits (or suspension for those aged 55 or over) unless his earnings exceed an amount equal to the monthly earnings measure of retirement (1/12 of the annual retirement test exempt amount) for those aged 65 or older—\$333.33 in 1978, higher in subsequent years (Effective for months after December 1977.)

Earlier Delivery of Benefit Checks

The new law requires advance delivery of social security and supplementary security income checks when the usual delivery date for these checks falls on a weekend or legal holiday. When this occurs, checks will be mailed earlier, even if the mailing must take place in the preceding month. Any overpayment that occurs as a direct result of the earlier delivery will be waived and will not be subject to recovery. This provision is effective for checks regularly scheduled for delivery on or after the 30th day after enactment of the law.

Temporary Administrative Law Judges

Certain administrative law judges were appointed several years ago on a temporary basis to hear SSI claims. These judges are to be given permanent status under the Administrative Procedure Act (Effective upon enactment.)

COVERAGE PROVISIONS

Annual Reporting

The annual wage-reporting provisions have been simplified so that quarterly data will no longer be needed to determine quarters of coverage. The 1977 amendments change the quarter-of-coverage measure so that, effective in 1978, a worker will receive one quarter of coverage (up to a total of four) for each \$250 of annual earnings paid in (instead of for each calendar quarter in which he is paid at least \$50). The \$250 measure will be automatically increased in future years to take account of increases in average wages. These provisions are effective January 1, 1978.

Totalization Agreements

The new law authorizes the President to enter into bilateral agreements with foreign countries to provide for limited coordination of social security systems. In general, the agreements eliminate dual coverage of, and contributions for, the same work under the social security systems of two countries and permit the payment of "totalized" benefits based on the proportion of the worker's earnings credits under each system. (The totalized benefit paid by each country will almost invariably be smaller than the benefit payable without recourse to totalization.) An agreement would not go into effect if rejected by either House within 90 days after being submitted to Congress.

Limited Partnership Income

Effective for taxable years beginning after December 31, 1977, the distributive share of income or loss from the trade or business of a partnership received by a limited partner who performs no service for the partnership are excluded from social security coverage. Under the old law, a partner's share of partnership income was includable in his net earnings from self-employment irrespective of the nature of his membership in the partnership.

Employer Taxes on Tips

Employers are required to pay social security taxes on tips deemed to be wages under the Federal minimum wage law, effective January 1, 1978. Under that law an employer can pay an employee up to 50 percent less than the Federal minimum wage by counting as wages the tips received by the employee. Previously, employers were not liable for employer social security taxes on any tips.

Clergymen

A clergyman who filed an application for exemption from social security coverage in the past will be given an opportunity to revoke his exemption and obtain social security coverage. The

revocation must be filed before the due date of the clergyman's Federal income tax return for his first taxable year beginning after the date of enactment (December 20, 1977). Thereafter, as under the old law, a clergyman's exemption from coverage is irrevocable.

Certain Illinois Policemen and Firemen

Effective upon enactment of the law, Illinois will be permitted, by modification of its coverage agreement with the Secretary, to provide social security coverage at any time before 1979 for certain policemen and firemen who were in positions covered under the Illinois Municipal Retirement Fund. Any wages erroneously reported in the past for such policemen and firemen will be validated.

Policemen and Firemen in Mississippi

Mississippi has been added to the list of States in the law that may provide social security coverage for policemen and firemen who are in positions covered under a State or local retirement system (effective upon enactment).

State and Local Employees in New Jersey

Effective upon enactment of the law, New Jersey has been added to the list of States in the law that may make social security coverage available to State and local employees under the divided-retirement-system procedure. Under this procedure, coverage may be extended only to those present employees in positions under a retirement system who desire it, with all future employees covered automatically.

Employees Under Wisconsin Retirement System

A special provision in the social security law that applies to State and local employees in positions under the Wisconsin Retirement Fund will apply to any successor retirement system of that fund, effective upon enactment of the law. Under the special provision, as amended, no employee

referendum approving extension of coverage is needed in order to extend coverage to groups who are newly covered under a successor system to the fund.

Nonprofit Organizations

The provisions that apply to nonprofit organizations were designed to correct some unintended effects of P L 94-563, which was enacted in 1976 to deal with problems of nonprofit organizations that had been paying social security taxes without having filed a valid waiver certificate. These provisions were effective upon enactment of the law.

FINANCING PROVISIONS

The financing provisions of the new law, taken together with the benefit provisions, will restore the short-range soundness of the program, will gradually build the OASDI trust funds up to acceptable contingency-reserve levels, and will adequately finance the program into the next century. Full discussion of the financial status of the program after the 1977 amendments is contained in the article that follows.

Contribution and Benefit Base

The amendments provide for ad hoc increases in the contribution and benefit base—the maximum amount of a worker's annual earnings subject to social security taxes and creditable for benefits—in 1979, 1980, and 1981. The base will rise to \$22,900 in 1979, \$25,900 in 1980, and \$29,700 in 1981 for employees and employers. After 1981, the base will be automatically adjusted to keep up with average wage levels, as under the old law. Contribution and benefit bases for 1978-82 under the old and new law are shown in table 3.

In 1981 and after, about 91 percent of all payroll in covered employment will be taxable for social security purposes and nearly 95 percent of all covered workers will have their full earnings credited for social security benefit purposes. In comparison, the \$3,000 base provided for in the original social security law taxed nearly 93

TABLE 3—Contribution and benefit base under old and new law

Calendar year	Old law ¹	New law ²
1977	\$16,500	\$16,500
1978	17,700	17,700
1979	18,900	22,900
1980	20,400	25,900
1981	21,900	29,700
1982	23,400	31,800

¹ Estimated under automatic adjustment provisions for 1979-82
² Stated in law for 1979-81. Estimated under automatic adjustment provisions for 1982

percent of all payroll in covered employment in 1938 and the annual earnings of about 97 percent of all covered workers were taxable and creditable

Tax Liability of Affiliated Corporations

Where an employee is concurrently employed by two or more affiliated corporations and is paid through a common paymaster (of the corporations), the new law amends the Internal Revenue Code to provide that for purposes of determining employer social security and unemployment insurance tax liability, such related corporations will be treated as if they were a single employer. The provision will be effective with respect to wages paid after December 31, 1978

Railroad Retirement System and Pension Benefit Guaranty Corporation

The base for tier II of the Railroad Retirement Act for both benefit and tax purposes will be the same as it would have been under the automatic provisions of the old law and will not be affected by the ad hoc increases in the contribution and benefit base scheduled under P L 95-216. Similarly, the pension insurance administered by the Pension Benefit Guaranty Corporation will also be unaffected by the ad hoc wage-base increases. The maximum insured pension amount will increase as it would have under the old law

Tax-Rate Schedule

The 1977 amendments also provide a new tax-rate schedule for OASDHI for employees, em-

ployers, and the self-employed, including necessary allocation of larger proportions of OASDI income to the disability insurance trust fund. Tax rates under the old and the new laws are shown in table 4

Under the new schedule, the total OASDHI tax rate both for employees and for employers will increase gradually, beginning 1979, from the 1978 level of 6.05 percent to 7.65 percent in 1990 and thereafter. Under the old law, the rates would have increased to 7.45 percent in 2011 and thereafter.

For the self-employed the OASDHI tax rate is scheduled to rise from its 1978 level of 8.1 percent to 10.75 percent in 1990 and thereafter. Under the old law, the rate would have risen to 8.5 percent in 1986 and thereafter. The larger increase in the self-employment tax rate results from the decision to restore the self-employment rate for OASDI to its original level of one and one-half times the employee rate, the self-employment rate had been below that level in recent years

Portions of already scheduled increases in the HI tax rate are shifted under the amendments to the OASDI program. With the increased income that will result from the increases in the contribution and benefit bases, however, the HI program is in a somewhat better financial position than it would have been under the old law

TABLE 4—Tax-rate schedule under old and new law
 [Percent of covered earnings]

Year	Total		OASDI		HI	
	Old law	New law	Old law	New law	Old law	New law
Employees and employers—each						
1977	5.85	5.85	4.95	4.95	0.90	0.90
1978	6.05	6.05	4.95	5.05	1.10	1.00
1979-80	6.05	6.15	4.95	5.08	1.10	1.05
1981	6.20	6.65	4.95	5.35	1.35	1.30
1982-84	6.30	6.70	4.95	5.40	1.35	1.30
1985	6.30	7.05	4.95	5.70	1.35	1.35
1986-89	6.45	7.15	4.95	5.70	1.50	1.45
1990-2010	6.45	7.65	4.95	6.20	1.50	1.45
2011 and after	7.45	7.65	5.95	6.20	1.50	1.45
Self-employed						
1977	7.90	7.90	7.00	7.00	0.90	0.90
1978	8.10	8.10	7.00	7.10	1.10	1.00
1979-80	8.10	8.10	7.00	7.05	1.10	1.05
1981	8.35	9.20	7.00	8.00	1.35	1.30
1982-84	8.35	9.35	7.00	8.05	1.35	1.30
1985	8.35	9.90	7.00	8.55	1.35	1.35
1986-89	8.0	10.00	7.00	8.55	1.50	1.45
1990-2010	8.50	10.75	7.00	9.30	1.50	1.45
2011 and after	8.50	10.75	7.00	9.30	1.50	1.45

COUNCILS, COMMISSIONS, AND STUDIES

The amendments change the reporting date of the next Advisory Council on Social Security and provide for several studies of different aspects of the social security program

Advisory Council on Social Security

The reporting date of the next statutory Advisory Council on Social Security is extended by 9 months—to October 1, 1979

National Commission on Social Security

A bipartisan nine-member National Commission on Social Security, with the chairman and four other members appointed by the President and four members appointed by Congress, will make a broad-scale, comprehensive study of the social security program, including Medicare. The study will include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, and financing alternatives. The Commission is also to study alternatives to the current programs, integration of the social security system with private retirement programs, and the question of need for development of a special price index for the elderly. The Commission is required to submit its final report 2 years after a majority of the members are appointed.

Study of Mandatory Coverage

The Secretary of Health, Education, and Welfare is required to undertake a study and report on mandatory coverage of employees of Federal, State, and local governments and of nonprofit organizations. The Secretary is required to consult with the Office of Management and Budget, the Civil Service Commission, and the Department of the Treasury, and they are directed to cooperate in the study.

The study is to include the feasibility and desirability of mandatory coverage of these employees, alternative methods of coverage and alternatives to coverage, and an analysis, under each alternative, of the structural changes required in retirement systems, as well as the impact on retirement system benefits and contributions for affected individuals. The report, to be made

to the President and the Congress, is due by December 20, 1979—within 2 years after enactment of the law.

Study of Proposals To Eliminate Dependency and Sex Discrimination

The Secretary of Health, Education, and Welfare, in consultation with the Justice Department Task Force on Sex Discrimination, is required to study and report on proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the social security program and on proposals to bring about equal treatment of men and women under the program. The report based on the study is due by June 20, 1978—within 6 months of enactment of the law.

OTHER SOCIAL SECURITY ACT AMENDMENTS

Reimbursement for Erroneous State Supplemental Payments

The Secretary of Health, Education, and Welfare is directed to reimburse the States for certain erroneous State-administered State supplementary SSI payments paid during 1974. Reimbursement will be limited to such payments that a Department of Health, Education, and Welfare audit finds to be incorrect as a result of the States' good-faith reliance on erroneous or incomplete information furnished to the States by the Department or incorrect SSI payments made by the Department.

Fiscal Relief for State and Local Welfare Costs

The amendments provide additional Federal funding of \$187 million to States and political subdivisions as fiscal relief from the costs of welfare. Each State will receive a share of that total on the basis of a two-part formula. Half the fiscal relief funds will be distributed in proportion to each State's share of the total AFDC expenditures for December 1976 and half under the general revenue-sharing formula.

Where local units of government are responsible for meeting part of the costs of the AFDC pro-

gram, at least 90 percent of the fiscal relief payments will be passed through to the respective political subdivisions. The payment of the additional Federal funds is to be made as soon as administratively feasible.

Financial Incentives for Quality Control

Another provision establishes a program of fiscal incentives, beginning January 1, 1978, as part of the AFDC quality control program. The provision is intended to encourage States to reduce their dollar error rates with respect to eligibility for, and amounts of, assistance paid under the approved State plan. This incentive is designed to provide motivation to the States for expanding their quality control efforts and improving program administration.

Under this amendment, States with dollar error rates of less than 4 percent would be compensated as follows:

<i>Percent of error rate</i>	<i>Percent of Federal savings retained by State</i>
3.5 but less than 4 -----	10
3 but less than 3.5 -----	20
2.5 but less than 3 -----	30
2 but less than 2.5 -----	40
Less than 2 -----	50

Access to Wage Information

Previously, the Social Security Administration was authorized to furnish social security information concerning AFDC recipients to States and political subdivisions for purposes of administering the AFDC program if they requested it. Beginning October 1, 1979, State and local welfare agencies and State employment security agencies must request earnings information. The Secretary of Health, Education, and Welfare is authorized to establish necessary safeguards against improper disclosure of the available wage information. The information is to be obtained by a search of wage records and will identify the fact and amount of earnings and the identity of the employer for individuals receiving AFDC at the time the earnings were received.

State Demonstration Projects

The law provides for a temporary broadening of the authority for State demonstration projects, particularly with regard to projects for employment of AFDC recipients (whose participation is voluntary). The provision is intended to encourage demonstration projects designed to find ways to make employment more attractive for public assistance recipients.

The States could request waiver of any or all of the following requirements of the AFDC program: (1) Statewide, (2) administration by a single State agency; (3) the earned income disregard, and (4) the work incentive program. To establish a project, States would be required to make application to the Secretary, give public notice of the application for the project, and request public comment on it. Under this provision, which expires at the end of fiscal year 1980, the Secretary is given 60 days to disapprove a State's application for a project, during which time the Secretary must also provide for public notice and comment. If the Secretary does not deny the application within the 60-day period, the State is authorized to implement a project without HEW approval.

Costs of the projects are eligible for the same Federal matching as other AFDC costs, with the limitation that the amount matchable with respect to any participant in the project cannot exceed the amount otherwise payable to him under AFDC. Therefore, no increased Federal expenditures are expected to be incurred from this provision. The States must provide project participants with the prevailing hourly wage for similar work in the locality.

Medicare Coverage of 'Wheelchair' Devices

The definition of durable medical equipment under the Medicare supplementary medical insurance program is expanded effective upon enactment of the law, to include a power-operated vehicle that may be appropriately used as a wheelchair. The vehicle must be medically necessary and meet safety requirements prescribed by the Secretary.