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1st Session

HOUSE OF REPRESENTATIVES

REPT. 97-143
PART 1

EXPENDITURE REDUCTIONS UNDER BUDGET RECONCILIATION PROCESS

REPORT

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 3850

together with

ADDITIONAL VIEWS

[Including cost estimate of the Congressional Budget Office]

JUNE 12, 1981.—Ordered to be printed

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97TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPT. 97-143 Part 1

EXPENDITURE REDUCTIONS UNDER BUDGET RECONCILIATION PROCESS

JUNE 12, 1981.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 3850 which on June 9, 1981, was referred jointly to the Committee on Ways and Means and the Committee on Energy and Commerce]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3850) to make expenditure reductions in accordance with the budget reconciliation process, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line number of the introduced bill) are as follows:

Page 12, line 5, strike out the quotation marks and final period.

Page 12, after line 5, insert the following new subsection:

(d)(1) Notwithstanding any other provision of this Act or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks that would, but for this subsection, be in that extended benefit period after the close of the benefit year shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under section 232(a). For purposes of this paragraph, the term 'benefit year' and 'extended benefit period' shall have the same respective meanings given to them in the Federal-State Extended Unemployment Compensation Act of 1970.

(2) The Secretary of Labor may not certify any State law for purposes of section 3304 of the Internal Revenue Code of 1954 unless he determines that such law is in compliance with paragraph (1).

Page 65, in the table of contents for title III, strike out the item relating to section 330.

Page 110, strike out ilne 9 and all that follows down through page 111, line 9.

I. SUMMARY

H.R. 3850 contains budget reconciliation recommendations of the Committee on Ways and Means which the Committee is required to report by June 12, 1981, pursuant to the conference report on the First Budget Resolution (H. Con. Res. 115) for Fiscal Year 1982. Subsections 15(A) and 15(B) of section 301 of H. Con. Res. 115, the First Concurrent Budget Resolution for Fiscal Year 1982, require the Committee on Ways and Means to report specific recommendations by June 12, 1981, which reduce spending for both entitlement and non-entitlement programs as follows: (1) $9.241 billion in fiscal year 1982. (2) $10.559 billion in fiscal year 1983; and (3) $11.248 billion in fiscal year 1984. H.R. 3850 provides spending reductions of approximately $9.3 billion for fiscal year 1982 with respect to programs within the jurisdiction of the Committee on Ways and Means.

A. TITLE I: TRADE ADJUSTMENT ASSISTANCE

Title I consists of three parts amending the trade adjustment assistance programs for workers, firms, and communities under Title II of the Trade Act of 1974 (Public Law 93–618). The amendments reflect Administration proposals in nearly all respects.

Worker Trade Adjustment Assistance (Part A)

Under existing law, petitioning groups of workers are certified by the Secretary of Labor as eligible to apply for worker adjustment assistance if (1) a significant number or proportion of the workers in the firm or appropriate subdivision of the firm have been, or are threatened to be, totally or partially laid off; (2) sales and/or production of the firm or subdivision have decreased absolutely; and (3) increased imports of articles like or directly competitive with articles produced by the firm or subdivision "contributed importantly" to the actual or threatened layoffs and to the sales/production decline.

Individual certified workers who meet the 26 of 52 week preceding layoff employment requirement are eligible for trade readjustment allowance (TRA) payments supplementing unemployment insurance (UI) for up to 52 weeks of unemployment. The weekly TRA payment is 70 percent of the worker's previous gross weekly wage, not to exceed the average weekly manufacturing wage (currently $289), reduced by the worker's UI entitlement and 50 percent of any earnings. Workers may receive up to 26 weeks additional benefits if in training or age 60 or over at time of layoff. Supplemental training assistance and job search and relocation allowances are also available and the Secretary may provide employment services and approve training.

The major amendments in the trade adjustment assistance program for workers under Part A of Title I of the bill are as follows:

1. The causal link between increased imports and worker layoffs and production/sales declines in the worker's firm or subdivision is strengthened from the present "contributed importantly" standard to the "substantial cause" standard used for industry-wide import relief.

2. Certain weeks of employer-authorized leave or disability covered by workmen's compensation will be counted toward the minimum pre-layoff employment requirement; the UI extended benefit "suitable work" test is applied to eligibility for TRA payments but not to other assistance.

3. TRA benefits are reduced to State UI levels for a maximum duration of 52 weeks of UI and TRA combined, payable only upon exhaustion of UI during the worker's most recent benefit period; payments are limited to weeks of unemployment more than 60 days after the petition is filed and during the 52 weeks after exhaustion of regular UI; an additional 26 weeks of TRA benefits will be available to workers in training, but not to older workers.

4. Supplemental training assistance and job search and relocation allowances are increased.

5. Training is made an entitlement if certain conditions exist; not less than $112 million is authorized in each of fiscal years 1982 and 1983 for training, job search and relocation allowances and program evaluation.

Firm and Community Trade Adjustment Assistance (Parts B and C)

Under existing law, individual firms may receive technical and/or financial assistance if they meet the same certification criteria described above for workers and develop an economic adjustment plan approved by the Secretary of Commerce.

Part B of the bill amends the criteria for firm certification to conform to the stricter import causation standard adopted for workers. Other modifications were necessary to preserve the existing program upon its transfer within the Commerce Department from the Economic Development Administration to the International Trade Administration, including authority for pre-certification and industry-wide technical assistance. Minor amendments make loan guarantees more attractive to private lenders and provide greater flexibility in their interest rate. Part C of the bill repeals the trade adjustment assistance program for communities, which has never been utilized.

The worker and firm programs are reauthorized for one year, to terminate September 30, 1983.

B. TITLE II: FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Phase Out Student Benefits for Postsecondary Students

Under current law, monthly cash benefits are paid to the children of an insured worker when the worker retires, becomes disabled, or dies. Because of a provision added in 1965 a child's benefits may continue after age 18 and up until age 22 as long as the beneficiary can establish that he is attending high school, college, or vocational school on a full-time basis. Benefits can continue for several months beyond age 22 (until the end of the school term) if the student has not yet completed his four-year college degree.

The Committee approved a proposal to eliminate the social security student benefit for post-secondary students age 18–22 who first enroll in postsecondary school after December 1982.

Children aged 18–22 currently receiving benefits as full-time students as well as those enrolled in post-secondary school before January 1983 could continue to receive benefits until age 22, but would be precluded from receiving future benefit increases after the 1981 increase, and would receive no payments during the summer months, June through August, except where the student is enrolled in a full-time summer school program beginning in 1982. Also, children over 18 would continue to receive benefits until completion of their elementary or secondary education.

Termination of Mothers' and Fathers' Benefits When Child Attains Age 16

Under current law, monthly cash benefits are paid to mothers or fathers caring for a child receiving social security benefits until the child attains age 18. The Committee would end entitlement to benefits for mothers and fathers when the child attains age 16.

The provision would not apply in the case of a parent caring for a disabled child aged 16 or over. The provision would be effective with respect to current beneficiaries only at the end of two years after the month of enactment, but would be effective for parents becoming newly entitled in or after the second month after enactment.

Eliminate the Social Security Minimum Benefit for Newly Entitled Beneficiaries

Under existing law, social security beneficiaries whose average lifetime earnings in covered employment are low receive a "minimum benefit" which is higher than the benefit they would otherwise receive under the benefit computation formula. (Low average earnings can result from work at low wages or from a few years attachment to the program.) The 1977 amendments "froze" the initial minimum benefit at $122 per month for persons who reach age 62, become disabled, or become eligible for survivor benefits after 1978; once they are on the benefit rolls, these beneficiaries receive the cost-of-living increases payable to all social security beneficiaries. Beneficiaries who turned 62, became disabled, or became newly eligible for survivor benefits in 1978 or earlier, receive whatever minimum benefit was in effect at the time they were first eligible to come on the rolls, plus any cost-of-living adjustments.

The Committee approved a proposal to eliminate the minimum benefit for newly-entitled beneficiaries. As of January 1982, no new beneficiaries would receive the minimum benefit, and would instead receive a benefit based strictly on their earnings record. This provision, in contrast to the Administration's proposal, would not affect the 3 million beneficiaries currently relying on their minimum benefits.

Round Social Security Benefits

Under present law, at each stage in the benefit computation, the amount derived is rounded up to the next higher 10 cents.

The Committee approved a proposal, effective generally for benefit computations after August 1981, which would provide that the amount derived at each stage in the benefit computation would be rounded to the lower dime, except for the last step—the actual benefit amount payable per beneficiary. This would be rounded to the next lower dollar. For those beneficiaries electing supplemental medical insurance (SMI), the rounding would occur after the SMI premium was deducted from the OASDI benefit check.

Pension Reform Act—Cost Reimbursement

Under current law, provisions of the Pension Reform Act of 1974 require administrators of most employee pension plans to furnish plan participants with information concerning their accrued and vested benefit rights. In addition, employers are required to maintain records, in accordance with Department of Labor regulations, sufficient to determine the benefits which are, or may become, due to each employee. While some pension plans have not kept the necessary earnings information, the Social Security Administration does maintain this information and has already received requests from plans for complete earnings histories of plan members. Under the provisions of the Freedom of Information Act and the Privacy Act, the cost of retrieving and transmitting this information is not fully borne by the requestor. Part is financed out of the social security trust funds.

The Committee approved a provision to permit SSA to recover the full cost of retrieving and transmitting information for purposes of enabling pension plans to comply with the Pension Reform Act. Effective October 1, 1981, full payment would be required from requestors to the social security trust funds for expenses incurred in providing earnings information, if the request is not directly related to determining an individual's social security benefit. Information requested by individuals for social security program purposes records will generally continue to be provided free of charge.

Pay One-half of July 1982 CPI Increase in July, Remainder in October

Under existing law, the change in the CPI is measured from the first calendar quarter of one year to the first calendar quarter of the next year. If it shows a 3 percent or more increase, a benefit increase of equivalent amount will be due for the month of June payable in July, following the end of the measuring period. This same increase applies to SSI, Veterans' and Railroad Retirement benefits.

The Committee approved a provision which moved part of the payment of the cost-of-living increase to October instead of July in 1982. An ad hoc increase equal to one-half the increase in the cost-of-living from the first quarter of 1981 to the first quarter of 1982 would be paid in July 1982.

In October 1982, a second benefit increase would be computed based on the increase in the CPI from the first quarter of 1981 to the March through May period of 1982 (a 14-month inflation period as compared to the present 12-month period). This increase would be adjusted to reflect the ad hoc increase paid in July, so that the October increase plus the ad hoc increase in July would equal the increase in the CPI over the 14-month measuring period. In this way, beneficiaries would receive a total increase based on 14 months of inflation, from January 1981 to March 1982. Future automatic increases, after 1982, would be based on the CPI change in the March through May period each year, and would be paid in October of each year.

Trust Fund Financing for Successful Vocational Rehabilitation Services

Under existing law, a limited amount of trust fund money can be used to pay States for vocational rehabilitation services (VR) provided to beneficiaries.

The Committee repealed the program that provides social security trust funds for the rehabilitation of disabled social security beneficiaries. However, the States would be provided reimbursement for rehabilitation services provided to disabled beneficiaries if they engage for nine continuous months in substantial gainful activity (SGA).

Retain Social Security Retirement Test Exempt Age at 72 Through 1982

Under current law, the age at which the retirement test no longer applies is scheduled to drop to 70 in January 1982. The provision would delay that change until January 1983.

Restrict Social Security Payment of Lump-Sum Death Benefits

Under current law a lump-sum death payment of $255 is payable when a worker who is fully or currently insured dies.

If there is a surviving spouse living with the worker at the time of death, the lump-sum payment is paid to that person. If there is no widow or widower eligible to receive the lump-sum death payment, the money can be paid to the person who assumed responsibility for funeral expenses.

The Committee agreed to eliminate the lump-sum death payment effective October 1981 in cases where there is no eligible spouse or entitled child. Under the proposal, a surviving spouse or child (under age 18) who is eligible (or would be eligible, in the case of a surviving spouse, but for their age) to receive monthly cash survivor benefits upon the worker's death would receive the lump-sum death payment.

Modification of Month of Initial Entitlement for Certain Workers and Their Dependents

Under the current law, social security benefits are paid for the entire month in which a person becomes eligible for the benefits, even if the date of eligibility is in the middle or the end of the month. The Committee approved a provision which would allow payment of benefits for certain workers and their dependents only for months in which conditions of eligibility are met for the entire month. This provision would be effective for months after August 1981.

C. TITLE III: UNEMPLOYMENT COMPENSATION, PUBLIC ASSISTANCE, LOW INCOME ENERGY ASSISTANCE AND SOCIAL SERVICES PROVISIONS

Unemployment Compensation

ELIMINATION OF THE NATIONAL TRIGGER FOR THE EXTENDED BENEFITS PROGRAM

Under existing law, up to 13 additional weeks of unemployment benefits, beyond the usual maximum duration of 26 weeks of State benefits, become payable to unemployed workers in times of high unemployment. Fifty percent of the costs of these extended benefits are paid from the proceeds of the Federal unemployment tax and fifty percent from State taxes. Extended benefits are paid in a State when the insured unemployment rate in the State reaches 4 percent and, in addition, is 20 percent higher than it was during the same period in the previous two years. Thirty-nine States provide for the payment of extended benefits when their insured unemployment rate reaches 5 percent, regardless of unemployment levels in previous years. Extended benefits are paid in *all* States, regardless of State unemployment rates, when the national insured unemployment rate reaches 4.5 percent. This is referred to as the "national extended benefits trigger."

Section 301 would repeal the national trigger, so that extended benefits would be paid only in States with insured rates above the specified levels, effective upon enactment.

EXCLUDE EXTENDED BENEFITS CLAIMANTS FROM STATE TRIGGER CALCULATIONS

Under current law, the insured unemployment rate—used to determine unemployment levels for the purpose of triggering extended benefits—is calculated by dividing the number of individuals receiving regular-State or extended benefits by the total number of workers covered under the State unemployment law.

Section 302 would exclude extended benefits claimants from the calculation of the insured unemployment rate for extended benefits trigger purposes effective July 1, 1981.

CHANGES IN UNEMPLOYMENT COMPENSATION REQUIREMENTS FOR EX-MILITARY PERSONNEL

Under present law, Federally funded unemployment benefits are provided to former military personnel upon their separation from military service if they meet the qualifying requirements of the State in which they apply for unemployment compensation. The military service of the individual qualifies as wages or employment in the determination of eligibility under the State unemployment compensation law only if (1) the person had served continuously for 1 year or more prior to separation and (2) the individual was separated under other than dishonorable or bad-conduct circumstances.

Section 303 would increase to 2 years the period of continuous active military service an individual must have in order for his or her military service to qualify as employment for unemployment compensation purposes; prohibit eligibility for unemployment compensation until 4 weeks after separation from the military; and, limit the number of weeks of unemployment compensation based on military service to 13. This provision is effective with respect to new claims filed on or after October 1, 1981.

Aid to Families With Dependent Children (AFDC)

LIMIT EARNED INCOME DISREGARDS

Under current law, in determining AFDC benefits, States reduce a family's monthly payment by the amount of any earnings that remain after the following disregards are applied: (1) the first $30, plus one-third of additional earnings; and (2) any expenses (including child care) reasonably attributable to the earning of any such income. (The work expense disregard is available to both recipients and new applicants. The $30 and one-third applies only to those already on the rolls.)

Section 321 would require States to disregard the following amount of monthly earnings, effective October 1, 1981:

For determining eligibility, 20 percent of gross earnings up to a maximum of $175 per month; and child care costs up to a monthly maximum of $200 per child and $400 per family.

For determining benefits, $50; 20 percent of gross earnings up to $175 per month; child care costs up to $200 per child and $400 per family per month; and, one-third of remaining earnings.

For two-parent families, States could limit the disregards to 20 percent of gross earnings (up to $175 per month) for eligibility determination; and $50 plus 20 percent of gross earnings (up to $175 per month) for benefit calculation.

States could terminate, or phase-out gradually, the $50 disregard and the one-third work incentive disregard for families with earned income above the poverty level or, at State option, 200 percent of the State standard of need, after the family has had earned income and claimed one-third disregard for 12 consecutive months. Individuals who lose eligibility for AFDC payments because of the termination of the disregards would remain eligible for Medicaid for 12 months after payment stops.

COUNT INCOME OF STEPPARENT

Under existing law, States are prohibited from assuming the income of a stepparent is available to an AFDC child unless, under State law, stepparents are required to support stepchildren to the same extent that natural parents are required to support their children. In most States, a stepparent's income can be counted only in cases in which the welfare agency receives information that the income is available to an AFDC child. However, States are allowed to prorate AFDC shelter and utility benefits when an eligible child lives with a relative, including a stepparent, who is not an AFDC recipient, as long as the total income exceeds the State's standard of need.

Section 322 would require States to consider available to a child that portion of the income of a child's stepparent (living in the same home as the child) which exceeds (1) 20 percent of earnings, (2) an amount equal to the State standard of need for the stepparent and others living in the same household whom he claims as dependents for Federal income tax purposes, (3) amounts actually paid by the stepparent to dependents not living in the same household, and (4) payments of alimony or child support to individuals not living in his household. A State would have the option of establishing a procedure and the conditions under which the State could determine that a stepparent's income is not available to the children and, therefore, not make the reduction in benefits. Effective October 1, 1981.

REQUIRE RETROSPECTIVE ACCOUNTING AND MONTHLY REPORTING

Under Federal regulations, each State may choose to pay benefits "retrospectively" (make payments after a month has ended on the basis of the person's income during the month) or "prospectively" (make payments during or before a month based on what the recipient's circumstances are expected to be during that month). The Federal statute makes no mention of how frequently AFDC recipients must submit reports to the welfare agency.

Section 323 would require States to determine monthly benefits "retrospectively" on the basis of the actual income of the previous month. Eligibility would be determined "prospectively" on the basis of current month's circumstances. And, for the first month of a family's eligibility, benefits would be determined on current month's circumstances. States would have to require all recipients to provide monthly reports on income, family composition, resources, etc.

The Secretary could allow a State to require less frequent reporting for specified classes of recipients, if the State demonstrates the administrative cost of monthly reporting for such recipients is not worthwhile. The provisions would be effective on October 1, 1981. However, until October 1, 1983, the Secretary could waive any penalty for noncompliance if he determines that a State is taking the necessary steps to implement retrospective accounting and monthly reporting.

ALLOW STATES TO REQUIRE CERTAIN RECIPIENTS TO PARTICIPATE IN JOB SEARCH AND EXPERIENCE ASSIGNMENTS

Under existing law, recipients of Aid to Families with Dependent Children (AFDC) are required to register for partcipation in the Work Incentive (WIN) program unless they fall within certain exempt categories specified in the Federal statute (e.g., mothers caring for children under age 6). Under the WIN program, recipients are required to accept available employment or training in order to receive AFDC payments. State are not now allowed to establish alternative work requirements which do not conform closely to the WIN program.

Section 324 would allow States to require AFDC recipients to participate in work experience assignments in which they would perform work in return for AFDC benefits. All employable recipients who are not in school or participating in a WIN or other approved training or work-related program, and who are working less than 20 hours a week, could be required to participate in work assignments after a WIN appraisal and an employability plan (or similar procedures established by the State) had been completed. Adequate day care would have to be available for recipients who need it.

Eligible participants could be required to work for up to 96 hours a month or, if less, the number of hours obtained by dividing their monthly AFDC payment by the minimum wage. In addition to the work assignment, each participant would be required, and must be provided necessary assistance and a reasonable period of time, to seek permanent employment or appropriate training. The State would have to reimburse participants for reasonable and necessary expenses incurred in connection with a work experience assignment and job search requirements.

Work experience assignments would have to be consistent with the physical capacity, skills, experience, health, family responsibilities and place of residence of the participant; meet health and safety standards specified by the Secretary of HHS; and could not displace permanent employees or jobs.

These provisions are effective October 1, 1981 through October 1, 1987.

DEFINE AN UNEMPLOYED PARENT (UP) AS THE PARENT WHO IS THE PRINCIPAL EARNER FOR THE FAMILY

Under present law, States have the option to provide AFDC–UP benefits to families where both parents are in the home and one is unemployed. Only one parent must be unemployed to meet this eligibility requirement; the other parent may be employed.

Section 325 would limit eligibility for AFDC to those two-parent families in which the "principal earner" (the parent with the most earnings in the 24 month period prior to application) is unemployed, effective October 1, 1981.

REQUIRE STATES TO RECOVER AFDC OVERPAYMENTS AND PAY UNDERPAYMENTS

Current Federal law does not require States to recover overpayments or make a retroactive reimbursement for any underpayments. By regulation, States are given the option of recouping overpayments. However, if a State recovers overpayments, it must also pay underpayments.

Section 326 would require States to promptly take all necessary steps to correct any overpayments or underpayments. Recovery of overpayments would be made from current assistance payments, available income, or through legal processes. In the case of a current recipient, the amount recovered in any month could not exceed the amount that would reduce the family's grant below 90 percent of the benefit for a family of the same size. This provision is effective October 1, 1981.

OPTIONAL PAYMENTS FOR DEPENDENT CHILDREN AGE 18 AND OVER AND IN SCHOOL

Under present law, to be eligible for AFDC as a dependent child, the general rule is that the person must be under 18 years of age. States have the option, however, of continuing benefits through age 20 if the person is regularly attending high school, vocational school or college. Currently 43 States extend AFDC eligibility to students age 18 through 20. These States may limit benefits to those attending high school and vocational schools; but they must continue benefits through age 20 if the person remains in school.

Section 327 would allow States who pay benefits to dependent children over 18 years of age (because they are in school) to limit eligibility at any age between 18 and 21, effective October 1, 1981.

DEEM SPONSORS' INCOME TO ALIENS IN AFDC FAMILIES

Current Federal law does not require States to consider the income of a sponsor of an alien legally admitted to the U.S. as income available to the alien for AFDC program purposes.

Section 328 would restrict AFDC payments to citizens of the U.S. and lawfully admitted aliens. In addition, the income and resources of the sponsor would be considered available to an alien in an AFDC family for three years after his or her entry into the U.S. The provision would be applicable with respect to individuals applying for aid for the first time after October 1, 1981.

LIMITATION ON RESOURCES

Under present law, States are required to take into consideration any resources of a child or relative in determining eligibility for AFDC benefits. States are allowed to exclude certain resources, including a home, personal effects, an automobile and income-producing property. Regulations require States to deny benefits to any individual whose assets minus the exclusions exceed $2.000.

Section 329 would reduce the current $2,000 per recipient limit on resources to $1,500 per family. States would be allowed to exclude a home and a car; household and personal effects; life and burial insurance policies; tools, equipment and other income-producing property. States would also be allowed to continue to delay eligibility for AFDC in cases where assets were disposed of in order to qualify for benefits, as under current law. This provision is effective October 1, 1981.

CHILD SUPPORT ENFORCEMENT

COLLECTION OF SUPPORT FOR ADULTS

Under current law, a State child support agency is not authorized to collect support (i.e., alimony) on behalf of a parent of a child for whom it is collecting child support. This is the case even when a court has ordered a single amount for both the parent and the child, without specifying the amount payable on behalf of each.

Section 331 would make State child support enforcement agencies responsible for collecting support for adults, in the case of a parent of a child for whom it is collecting child support and in those cases in which the support obligation has already been established, in the same manner as for child support. This provision is effective upon enactment.

MODIFY COLLECTION FEE FOR NON-AFDC FAMILIES

Under existing law, States are required to provide services to non-AFDC families requesting assistance. States have the option of charging a fee of up to $20 and of retaining a portion of the child support payments to recover costs of administration in excess of the application fee.

Section 332 would require States to charge a fee equal to 10 percent of the support collected for non-AFDC recipients to defray costs of the child support enforcement agency collection services. The fee would be retained by the State. This provision is effective upon enactment.

SOURCE OF INCENTIVE PAYMENTS TO COOPERATING JURISDICTIONS

Under current law, the 15 percent incentive payments to States or political subdivisions that collect child support payments on behalf of another jurisdiction are taken from the Federal share of the amount collected.

Section 333 would provide that the 15 percent incentive payments to States and political subdivisions would come from the full amount of collections, rather than from the Federal share, effective October 1, 1981.

CHILD SUPPORT OBLIGATIONS NOT DISCHARGED BY BANKRUPTCY

In 1974, a provision was included in the child support enforcement program which prohibited the discharge in bankruptcy of a child support obligation which had been assigned to a State as a condition of AFDC eligibility. This Social Security Act provision was subsequently repealed by section 328 of Public Law 95–598 (the 1978 revision of the Bankruptcy Act).

Section 334 would reinstate the provision previously in effect which provides that a child support obligation assigned to a State as a condition of AFDC eligibility is not discharged in bankruptcy, effective upon enactment.

CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

Under existing law, there is no provision allowing for the withholding of unemployment benefits in cases of outstanding child support obligations.

Section 335 would require child support enforcement agencies to determine on a periodic basis whether any individuals receiving unemployment compensation or trade adjustment assistance benefits owe child support obligations. The agency would be required to collect any outstanding child support obligations owed by an individual receiving unemployment benefits, through an agreement with the individual or the legal processes of the State, by having a portion of the person's unemployment benefits withheld and forwarded to the child support agency by the unemployment compensation agency. This provision is effective October 1, 1981; but the provisions would not become State Child Support Enforcement and Unemployment Compensation plan requirements until October 1, 1982.

INTERNAL REVENUE SERVICE COLLECTION OF CHILD SUPPORT AND ALIMONY

Under current law, a State may request the IRS to collect delinquent, court-ordered child support payments after the State has made diligent and reasonable efforts to collect the payments. The amount of the child support obligation must be certified by the Secretary of Health and Human Services before IRS collection procedures may be used.

Section 336, at the request of a State and subject to the same certification and other requirements in current law, would (1) allow IRS to collect delinquent alimony as well as child support payments where alimony and child support are combined in a single order and the amounts for child support and alimony are not identified; and (2) permit IRS collections in cases where child support/alimony obligations have been established under an administrative as well as court order. This provision is effective upon enactment.

SUPPLEMENTAL SECURITY INCOME (SSI)

RETROSPECTIVE ACCOUNTING FOR SSI RECIPIENTS

Currently, SSI benefits are determined on the basis of income anticipated to be available in the current calendar quarter. Redeterminations are made at such times as provided by the Secretary.

Section 341 would provide that SSI benefits be based on actual income of the previous month (or, at the Secretary's option, the circumstances in effect on the last day of the second previous month). Eligibility would be based on current month's circumstances. And, for the first month benefits are received, and for any month in which significant change occurs in the living arrangements of the individual, benefits would be based on current month's circumstances. This provision is effective for months after the last month of the first quarter ending five months after enactment.

ELIGIBILITY OF SSI RECIPIENTS FOR FOOD STAMPS

Under current law, SSI recipients in three States—Massachusetts, Wisconsin and California—receive a cash payment, as a part of the State supplemental SSI benefits, in lieu of food stamps. Massachusetts and Wisconsin are allowed to provide SSI recipients cash in lieu of food stamps because, and for so long as, the Federal Government continues to contribute to the cost of the State supplemental benefit as provided under the "hold harmless" provisions in present SSI law. A separate Federal law allows California to continue to "cash-out" food stamps for SSI recipients so long as it continues to pass-through each year the Federal SSI cost-of-living increase and provides a yearly cost-of-living adjustment in its State supplementary benefit.

Section 342 would modify current Federal SSI food Stamp "cash-out" requirements so that a State could continue to "cash-out" food stamps for SSI recipients so long as it (1) had previously increased its supplementary benefits to include the bonus value of food stamps, (2) was providing a cash payment in lieu of food stamps as of December 1980, and (3) continued to pass-through the Federal cost-of-living increases as required under section 1618 of current SSI law. This provision is effective July 1, 1981.

NEGOTIABILITY OF SSI CHECK

Under existing law there is no time limit on the negotiability of SSI checks.

Section 342 would limit the negotiability of SSI checks to 180 days from date of issuance. The amount of any unnegotiated checks which represents a State supplementary payment would be returned to the States. This provision is effective October 1, 1981.

SPECIAL INTERIM COST-OF-LIVING INCREASE IN SSI BENEFITS

A yearly cost-of-living adjustment is made in Federal SSI benefits equal to the percentage adjustment provided for social security retirement and disability insurance payments. This is done through a reference in the SSI law to the cost-of-living adjustment provisions in Title II of the Social Security Act.

Section 344 would conform future cost-of-living adjustments in SSI to changes in the Social Security cost-of-living adjustment provisions contained in Title II of this bill.

Low-Income Energy Assistance

REAUTHORIZATION OF LOW-INCOME ENERGY ASSISTANCE

Under current law, authority for providing low-income energy assistance (LIEA) exists under both the Economic Opportunity Act of 1964 and the Home Energy Assistance Act of 1980 (Title III of the Crude Oil Windfall Profits Tax of 1980 (P.L. 96–223)). The Economic Opportunity Act does not specify a specific budget authority. The Home Energy Assistance Act authorizes $3.125 billion for energy assistance in fiscal year 1981. The authority under both acts expires on September 30, 1981. For fiscal year 1981, $1.85 billion was appropriated for LIEA under the authority of the Economic Opportunity Act of 1964. However, the fiscal year 1981 appropriation stipulates that LIEA is to be administered under the "terms and conditions" of the regulations and any "non-formula amendments thereto" published in the May 30, 1980 Federal Register pursuant to the Home Energy Assistance Act of 1980.

Section 361 would authorize the LIEA funds under a new title XXI of the Social Security Act: $1.4 billion for FY 1982 and $1.6 billion for FY 1983. Each State would receive the same proportion of Federal LIEA funds appropriated for fiscal years 1982 and 1983 that it received of the LIEA funds allotted by formula for fiscal year 1981. States would be allowed to carry-over up to 25 percent of the funds received in one fiscal year into the next. Beginning in fiscal year 1983, States would be required to provide 20 percent matching funds.

Federal LIEA funds could be used to provide assistance to families receiving federally funded public assistance benefits (AFDC, SSI, Food Stamps, Veterans' Benefits) and to other families with incomes below 150 percent of the poverty level or 60 percent of State median income. (States could establish income limits below either of these). Payments could be made directly to eligible households, or to energy suppliers or certain building operators, or any combination thereof.

States could use Federal LIEA funds to assist eligible households pay for the costs of heating or cooling; for the purchase and installation of weatherization materials designed to improve the heating or cooling efficiency of homes of eligible households; and to meet energy-related emergency needs, including provision of in-kind benefits.

Social Services Amendments

LIMIT FEDERAL TITLE XX TRAINING FUNDS TO $75 MILLION FOR FISCAL YEAR 1982

Under current law, 75 percent Federal matching funds are available to States for training costs related to Title XX Social Services activities. Beginning in fiscal year 1982, States will be reimbursed only for those expenditures included in an HHS approved State Title XX training plan.

Section 381 would continue through fiscal year 1982 the $75 million limitation on Federal Title XX training funds that was in effect in fiscal year 1981. States will receive the same share of the $75 million in fiscal year 1982 as they received in fiscal year 1981.

D. TITLE IV: HEALTH SAVINGS

The bill achieves health savings through changes in medicare reimbursement, benefits, deductibles and coinsurance amounts, and through more efficient program administration.

Medicare reimbursement limits on inpatient hospital and home health services would be tightened, an incentive reimbursement system for renal dialysis services would be established, interest earnings on funded depreciation accounts of providers would be offset against interest expense in determining reimbursement, rules regarding reduced payment for long-term care in hospitals would be tightened, and a provision of existing law postponing reimbursement to certain hospitals at the end of fiscal year 1981 would be repealed.

Nutritional therapy services for end stage renal disease patients would be covered where such therapy postpones or reduces the need for renal dialysis. Alcohol detoxification facilities would no longer be recognized as medicare providers of services.

Deductible and coinsurance amounts under medicare part A (hospital insurance) would be changed to more nearly reflect current hospital costs, and a coinsurance amount of $1 per day would be established for the first through the 60th day of inpatient hospital care. The annual deductible for medicare part B (supplementary medical insurance) would be increased from $60 to $70 and indexed in future years to reflect cost of living increases. Expenses incurred in the last 3 months of a year could no longer be used to satisfy the part B deductible in the next year.

The Secretary of Health and Human Services would be authorized to impose civil money penalties on persons who file fraudulent medicare or medicaid claims, surveys of skilled nursing facilities would be permitted to be conducted less frequently than annually, and utilization guidelines would be established for coverage of home health services.

Authority would be given to the Secretary to terminate the less effective Professional Standards Review Organizations during fiscal year 1982, and the PSRO program would be repealed at the end of fiscal year 1983.

Medicare part B would become the secondary payor to the Federal Employees Health Benefits Program for people aged 65 and over who have coverage under both programs. Medicare part A would become secondary payor to the Federal employees program with respect to people reaching age 65 on or after January 1, 1982.

SUMMARY OF COMMITTEE RECOMMENDATIONS

REDUCTION IN OUTLAYS

[By fiscal years, in millions of dollars]

	1982	1983	1984
Trade	1,370	877	640
Social security	3,160	2,608	3,828
Unemployment compensation	1,378	540	280
AFDC and child support enforcement	691	938	1,002
SSI	167	138	146
Low-income energy assistance	847	947	1,067
Social and child welfare services	7	0	0
Medicare	1,642	1,405	1,645
Total, spending reductions	9,262	7,453	8,608

II. EXPLANATION OF PROVISIONS

A. TITLE I: TRADE ADJUSTMENT ASSISTANCE

Title I consists of three parts containing amendments of the trade adjustment assistance programs for workers, administered by the Department of Labor, and for firms and communities, administered by the Department of Commerce, under Chapters 2, 3, 4, and 5 of Title II of the Trade Act of 1974 (Public Law 93–618). These amendments become effective upon date of enactment of this Title unless otherwise specified.

1. PART A: TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

a. Group Eligibility Requirements (Section 101)

Section 101 of the bill amends the criteria under section 222 of the Trade Act of 1974 for groups of workers to be certified eligible to apply for trade adjustment assistance. Section 101 would require that increased imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof be a "substantial cause" of, rather than "contribute importantly" to, the actual or threatened total or partial separation of the workers and the decline in sales and/or production of the firm or subdivision. "Substantial cause" is defined as "a cause which is important and not less than any other cause," the same standard applied by the International Trade Commission (ITC) under section 201 of the Trade Act in determining whether increased imports are a substantial cause of serious injury to a domestic industry seeking import relief. This amendment would apply to petitions for certification filed under section 221 of the Trade Act on or after the date of enactment of this Title.

The proposed "substantial cause" test is a more difficult standard to meet than the "contributed importantly" criterion under existing law. It requires a dual test be met—that increased imports be an important cause of sales or production declines and actual or threatened worker separations as under the present standard, but includes the additional requirement that the import cause not be less than any other single cause. The purpose of the stricter standard is to ensure a sufficient linkage between increased import competition and the worker's unemployment to justify special, greater benefits than available to workers under the unemployment compensation (UI) program.

In order to certify a group of workers under the "contributed importantly" test in existing law, the Secretary of Labor is required only to find that increased imports were an important cause of worker layoffs and sales/production declines, interpreted in the reports of the House Ways and Means and Senate Finance Committees on the Trade

Act to be significantly more than a *de minimis* cause. The Secretary is not required to find that imports were equal to or more important than any other single cause. Consequently, under existing law the Secretary does not need to examine and establish the relative magnitude of all the significant possible causes of the declines and layoffs. However, the legislative history also makes clear that if a non-import cause is so dominant or factors such as new technology, domestic competition, seasonal changes, or the business cycle would have caused essentially the same worker separations and sales or production decline irrespective of whether imports are an important cause, the Secretary is not to issue a certification. These guidelines with respect to determining whether imports are an important cause would continue to apply.

In determining whether imports are a cause at least equal to any other cause, the legislative history with respect to import relief investigations recognized that "weighing" causes is not always possible in a dynamic economy and application of a mechanical designation of the possible causes, such as a percentage of causation, is not intended. However, the Secretary of Labor will have to identify and evaluate the important factors having an adverse impact on sales, production, and employment of the particular firm or subdivision and establish their relative magnitude to satisfy himself that increased competitive imports are at least as important a cause as any other single factor.

For example, if imports were just one of many factors of equal weight, imports would meet the test of being "not less than any other cause" but it would be unlikely that any of the causes would be deemed an "important" cause. If there were any other cause more important than imports, then the second test of being "not less than any other cause" would not be met. On the other hand, if imports were one of a few factors of equal weight and there were no other factors, both tests would be met.

While the "substantial cause" standard proposed for trade adjustment assistance is identical to the causal link to imports used by the ITC in its investigations of import relief for domestic industries, the test in the case of adjustment assistance would be applied to the eligibility of a group of workers at the level of an individual firm or a subdivision of a firm, rather than to an industry as a whole. Thus, one or many groups of workers in individual firms or subdivisions of an industry may be certified by the Secretary of Labor as eligible to apply for adjustment assistance even though the ITC may have found the industry as a whole not to be seriously injured or threatened with serious injury under the same test. Similarly, a finding by the Commission of serious injury or threat thereof to an industry as a whole would not result necessarily in certification of the workers in all or substantially all firms or subdivisions of that industry. Given the difference in scope and economic conditions of the entities involved, affirmative or negative determinations in the application of the test by the Department of Labor or the ITC should not influence subsequent decisions by the other agency in applying the same test.

b. Benefit Information Responsibilities (Section 102)

Section 102 of the bill substitutes a new section 225, entitled "Benefit Information to Workers" for section 224(c) of the Trade Act to expand the responsibilities of the Secretary of Labor to inform workers about the program and assist them in obtaining benefits.

New section 225 requires the Secretary of Labor, as of the date of enactment of this Title, to provide full information to workers about the monetary benefits, training, and other employment services available under the trade adjustment assistance program, the application procedures and appropriate filing dates for the various allowances, training and other services, and whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. This responsibility applies to workers in any industry, not just to those in an industry subject to an affirmative finding of import injury by the ITC as under section 224(c) of existing law.

Section 102 also requires the Secretary to make every effort to insure that cooperating State agencies fully comply with the agreements they enter into under section 239(a) of the Trade Act for providing payments and employment and training services to eligible workers, and to periodically review such compliance. In this connection, the cooperating State agencies should display information about program benefits, including training and other employment services, and about application procedures and filing deadlines, as well as assist workers as necessary to file proper applications for such assistance.

A major complaint about the existing program during its initial stages was lack of information about its availability and the qualifying requirements, in particular the deficiency of some State agencies in being familiar with and volunteering accurate information about program benefits and employment services and the procedures for obtaining them. As a result, many workers either were never aware of program benefits and procedures or became aware too late to meet deadlines for filing applications.

Given this past experience, the Committee expects the Secretary of Labor to make every effort to ensure that the State agencies fully inform workers of the fundamental changes under this bill in program benefits and in the time limits and procedures for filing applications. The State agencies, as soon as petitions are certified, should encourage unemployed workers to file and register for program services and benefits promptly in order to expedite the adjustment process and to ensure that workers receive benefits to which they are entitled as soon as possible after their trade-related layoff. It is also essential that the State agencies fulfill their responsibilities under the Act to provide necessary employment services and procure suitable training if the goal of focusing the program on adjustment of workers through new employment rather than income maintenance is to be achieved. The Committee expects the Secretary to review periodically State agency efforts in these respects and ensure their compliance with the cooperative agreements under section 239(a).

New section 225 also requires the Secretary to inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification of groups of workers issued under section 223 of the Trade Act and of projections, if available, of training needs as a result of each certification. The purpose of this provision is to expedite the training process by giving advance information to potential delivery agents about possible worker demand and needs for training to enable them to plan for or develop appropriate programs.

c. Trade Readjustment Allowances (Section 103)

Section 103 of the bill amends sections 231, 232, and 233 of the Trade Act concerning the requirements for individual workers to qualify for trade readjustment allowances (TRA) and the determination of the weekly amounts and duration of these allowances. These amendments apply with respect to TRA payable for weeks of unemployment beginning after September 30, 1981.

Amended section 231 sets forth the requirements that individual adversely affected workers covered by a certification under section 223 as eligible to apply for trade adjustment assistance must meet in order to qualify for trade readjustment allowances. Each certification contains a so-called "impact date" on which total or partial layoffs from the firm or appropriate subdivision of the firm began or threatened to begin in adversely affected employment. Existing law entitles an adversely affected certified worker to a TRA payment for any week of unemployment which begins after the "impact date" if the workers last total or partial layoff prior to application for payment occurred (1) on or after the "impact date", (2) during the two-year period following the certification date, and (3) before the termination date, if any, of the certification under section 223(d) of the Trade Act. Existing law also requires that a worker have at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm during the 52 weeks immediately preceding the worker's last total or partial layoff prior to TRA application. Only weeks the worker is actually on the job are counted as qualifying weeks.

Amended section 231(a) (1) and (2) change these requirements in two respects:

1. Under amended section 231(a)(1), an adversely affected worker covered by a certification who files an application would be entitled to a TRA payment only for any week of unemployment which begins more than 60 days after the date the petition that resulted in the certification was filed, i.e., for weeks of unemployment occurring after the statutory deadline for certification. Workers could continue to be certified for actual or threatened separations occurring up to one year prior to the petition filing date for purposes of qualifying for employment services, training, or job search and relocation allowances before or after their exhaustion of UI. However, they would no longer be eligible for TRA benefits retroactively beyond the date certification is supposed to take place.

The purpose of this change is to encourage timely petitions before magnitude of retroactive lump sum TRA payments currently paid exhaustion of UI and to substantially eliminate the frequency and often after workers have returned to employment. Workers would continue to receive retroactive TRA payments only for any week of unemployment occurring between 60 days after the petition filing date and the date of any certification delayed beyond 60 days.

2. Amended section 231(a)(2) makes three changes to liberalize the pre-layoff employment requirement workers must meet to qualify for TRA benefits. It eliminates the requirement that all 26 or more weeks of pre-layoff employment be with a "single firm or subdivision of a firm," permitting weeks of unemployment with more than one firm or appropriate subdivision to be counted toward the necessary qualifying weeks as long as the job with each such firm or subdivision is in adversely affected employment covered by a certification issued under section 223. This change will allow more workers in industries typified by frequent total or partial layoffs and frequent movement of workers between firms to qualify for TRA benefits.

Amended section 231(a)(2) also removes the limitation under existing law whereby only weeks of unemployment in the 52 weeks "immediately preceding" the worker's total or partial separation can be counted as qualifying weeks. Under the amendment, a week of employment in which separation occurs will be included as one of the 26 weeks of prelayoff employment.

Finally, amended section 231(a)(2) provides that any week a worker is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, inactive duty or active military service for training, does not work because of a disability that is compensable under a State or Federal workmen's compensation law or plan, or has had his employment interrupted in order to serve as a full-time representative of a labor organization in the firm or subdivision shall be treated as a week of employment at wages of $30 or more. Not more than 6 weeks of employer-authorized leave or leave to serve as a full-time union representative, or not more than 13 weeks of disability covered by workmen's compensation, or not more than 13 weeks combining disability and up to 6 weeks of employer-authorized or union leave can be counted as weeks of employment for this purpose.

Many cases have come to the attention of the Committee of workers with considerable seniority in the firm and long attachment to the labor force being unable to meet the 26 weeks of work requirement in the year immediately preceding layoff due to the plant instituting shorter, intermittent work schedules rather than immediate permanent layoffs of some of the labor force as it begins to experience import impact, or because the worker incurred a disabling injury or was on sick, military or other authorized leave. In other cases a worker would have met the 26 week requirement if the week the layoff occurred could have been credited as a week actually at work. The amendments will provide greater equity in the coverage of workers eligible for allowances by not having eligibility rest on the timing of one worker's authorized leave compared to that of another worker in otherwise similar circumstances, and will remove the penalty for engaging in worthwhile activities such as military duty. At the same time, the intent of existing law will be preserved that the worker have a substantial attachment to the labor force over a one-year period.

Amended section 231(a)(3) adds further new requirements not included under existing law for individual adversely affected workers covered by a certification to qualify for TRA benefits. First, a worker must have received credit for any waiting week period required under State or Federal unemployment insurance law applicable to the worker. Second, before the worker can receive a TRA payment, he must have exhausted all rights to UI in his most recent UI benefit period, either by having received all regular unemployment insurance and additional compensation and extended benefits, if applicable, to which he was entitled under State or Federal law in that period, or because the period has expired. Once the worker has exhausted UI he is entitled to TRA benefits except for any week he is entitled to payment for any further UI or waiting period credit. This provision constitutes a fundamental program change whereby TRA benefits will become a continuation of, rather than supplement to, the unemployment insurance program and oriented to adjustment of workers who are long-term or permanently unemployed rather than on temporary layoff.

Once a worker is determined to have exhausted all his rights to UI in the first benefit period, then he may not be determined to have a subsequent exhaustion of his rights under that same certification. In other words, a worker would only be able to collect TRA benefits under a particular certification during the one period following exhaustion of his UI rights in his most recent benefit period and would not be entitled to a second round of TRA benefits for weeks of unemployment following exhaustion of a subsequent UI benefit period. However, the worker might be eligible to collect more of his original TRA entitlement if he is still within his TRA benefit period after a subsequent exhaustion of UI. Under existing law workers may collect up to 52 weeks of basic TRA benefits under a single certification for subsequent periods of unemployment which may have occurred for reasons other than the original trade-related layoff.

Finally, amended section 231(a)(4) makes certified workers subject to the provisions of the "suitable work" test under section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970 (EB) as a pre-condition to receiving any TRA payment. TRA claimants will have to be informed of this requirement prior to their first week of TRA eligibility. The EB work test requires that claimants whose prospects of returning to their line of work are not good will be disqualified if they fail or refuse to accept offers of "suitable work" as defined in that Act or to seek and apply for such work. The EB work test would not apply to workers in State-approved training as required by section 3304(a)(8) of the Internal Revenue Code of 1954.

In effect, this requirement treats TRA eligibility like an extended UI benefit period by requiring a worker to expand his job search or to take a lower paying job, if available, after having received usually six months of unemployment compensation. The EB work test is currently applicable to TRA claimants in those States which have triggered "on" an extended benefit period. Under amended section 231(a)(4) the work test would apply after the end of the regular UI benefit period to all TRA claimants in all States, whether or not the EB period has been triggered "on."

Amended section 231(b) adds a further provision to promote worker reemployment by authorizing the Secretary of Labor to require workers after their first eight weeks of TRA eligibility has expired either to accept training or to extend their job search if he determines that certain labor market area and individual worker circumstances are met. If the Secretary determines with respect to any labor market area that (1) a high level of unemployment exists, (2) suitable employment opportunities are not available, and (3) there are facilities available for providing training under section 236 of the Trade Act in new or related job classifications, he may require, in accordance with such regulations as he prescribes, all adversely affected workers totally or partially separated in that area (1) whose first eight weeks of TRA eligibility have expired and (2) for whom training is approved under section 236 either to accept such training or to search actively for work outside the labor market area. The provision might apply, for example, if a major source of employment in the area permanently closes and the only opportunities for reemployment are training for a different occupation with expanding industries in the same area or search for a job in the same occupation in a different area. No worker would be required to accept or participate in training for a period longer than the remaining period he is entitled to TRA benefits (basic benefits plus, if eligible, an additional 26 weeks while in training). An individual worker would not be required to engage in job search beyond the labor market area if training has not been approved for him as an alternative choice. The term "labor market area" is defined in the Introduction to the Directory of Department Labor Areas, 1980 edition, published by the Department of Labor.

Section 103 of the bill also amends the weekly TRA benefit amount under section 232 of the Trade Act. Under existing law weekly TRA benefits are a national uniform standard equal to 70 percent of the worker's previous gross weekly wage (currently $289 a week), reduced by (1) the amount of the worker's UI entitlement, if any, (2) 50 percent of any part-time earnings during the week, and (3) certain training allowances paid under Federal law.

Amended section 232 shifts TRA benefit levels to a State standard limiting the allowance payable to an adversely affected worker for a week of total unemployment to an amount equal to the most recent UI benefit amount payable to him for a week of total unemployment during his most recent benefit period, that is, the most recent amount he received in UI during the benefit year in which his trade-related layoff occurred. That amount would be reduced (but not below zero) by (1) any training allowance under amended subsection (c), and (2) income deductible from UI under the disqualifying income provisions of the applicable State law or Federal UI law, such as for partial unemployment, pension payments, vacation pay, and certain proportions of part-time earnings.

As under existing law, subsection (b) provides that any adversely affected worker entitled to TRA benefits and undergoing training approved by the Secretary, including on-the-job training, shall receive for each week of such training the TRA benefit amount or the amount, if greater, of any weekly training allowance under any other Federal law to which he would be entitled if he applied. Such TRA amount would be paid in lieu of any training allowance. Subsections (e) and (f) of existing law are deleted.

The reduction in weekly TRA payments under amended section 232 is intended to reduce the current disincentive to seek reemployment inherent in the present higher benefit levels and to achieve greater equity in unemployment benefits available within a particular State to workers laid off because of increased imports and those unemployed for other reasons.

Finally, section 103 of the bill reduces the duration and maximum amount of TRA benefits. Under section 233 of existing law basic TRA benefits are payable for up to 52 weeks of unemployment. Workers age 60 or over on or before the date of their total or partial separation are entitled to 26 additional weeks of benefits. A worker may receive up to 26 additional weeks of TRA payments to assist him in completing training approved by the Secretary, if he has applied for the training within 180 days after his most recent total or partial separation or first certification, whichever is later. Basic benefits may be collected for weeks of unemployment over a maximum two-year period following the worker's most recent layoff, additional benefits during a maximum three-year period following layoff.

Under amended section 233(a), the total amount of all trade readjustment allowances payable to an adversely affected worker may not exceed 52 times the allowance payable under amended section 232(a) to the worker for a week of total unemployment, minus the total amount of UI payable to the worker in his most recent benefit period (i.e., 52 times UI minus UI payable). TRA benefits may be collected only during the 52-week period following the week in which the worker exhausted all his rights to regular unemployment compensation in his most recent benefit period. For example, a worker on permanent layoff determined entitled to TRA benefits in a State with a 26-week regular UI program and triggered "on" a 13-week extended benefit period would exhaust his rights to regular compensation and begin the 52-week benefit period for collecting TRA payments after collecting 26 weeks of UI. He would collect 13 weeks of EB before becoming eligible to collect a maximum 13 weeks of basic TRA payments during the remaining 39-week TRA collection period, for a total 52-week combined benefit entitlement consisting of 26 weeks regular UI, 13 weeks EB, and 13 weeks of TRA. The tighter time limits on the duration and collection period of benefits are consistent with the purpose of encouraging reemployment and of reducing the incidence of TRA benefit collection during periods of non-trade-related unemployment.

As provided under section 233(d), if the worker collects benefits in a State in which EB is not triggered "on" in his most recent UI benefit year until he has exhausted regular UI and collected one or more weeks of TRA, the number of weeks in which the worker was entitled to TRA in that benefit year will be deducted from the number of weeks of extended beenfits after the close of that benefit year to which the worker would otherwise be entitled. The Secretary of Labor may not certify any State law for purposes of section 3304 of the Internal Revenue Code of 1954 unless he determines that law is in compliance with this provision.

In the absence of subsection (d), a worker could collect as much as 65 weeks rather than 52 weeks of combined benefits if extended benefits are not triggered "on" until he has exhausted 26 weeks of regular UI and collected 25 weeks of TRA, then collects 13 weeks of EB, plus the remaining week of TRA. Subsection (d) removes this inequity between workers in otherwise similar circumstances of different durations of benefits due solely to the timing of the EB trigger in a particular State by limiting combined UI and basic TRA payments to a maximum 52 weeks in all cases involving extended benefits.

In accordance with regulations prescribed by the Secretary of Labor, TRA may be paid under amended section 233(b) for up to 26 additional weeks in the 26-week period following the worker's last week of entitlement to basic TRA benefits in order to assist the worker to complete training approved under section 236, if the worker applies for the training program within 210 days (an additional 30 days beyond existing law) after the date of his first certification or of his first total or partial layoff, whichever is later. As under existing law, TRA payment may be made only if the worker is engaged in and is not failing to make satisfactory progress in training. However, older workers would no longer be eligible for additional weeks of TRA benefits.

Under transition provisions of section 111 of the bill, workers who are receiving or are entitled to TRA payments for weeks of unemployment beginning before October 1, 1981 will continue to be entitled to existing benefit levels for any weeks of unemployment beginning before October 1. For weeks of unemployment beginning after September 30, the worker would be entitled to the remaining number of weeks of basic TRA benefits and any additional weeks of benefits if in training the worker is entitled to under the current program, but at the new UI weekly benefit level. The work is also subject to the new provisions requiring exhaustion of rights to UI and collection of TRA benefits only during the 52-week period (78-week if in training) following exhaustion of regular UI. Older workers receiving additional weeks of benefits for weeks of unemployment beginning before October 1 would not be entitled to TRA benefits for any additional weeks of unemployment beginning after October 1. Claimants currently receiving UI and a TRA supplement as of October 1 would no longer be eligible for such supplement and would have to exhaust their rights to UI in their most recent benefit period before collecting any remaining weeks of TRA entitlement.

d. Training and Other Employment Services (Section 104)

Section 104 of the bill amends sections 235 and 236 of the Trade Act to place primary emphasis on and to enhance the benefits of the positive adjustment aspects of the program through a comprehensive and integrated approach for each worker. The amendments take effect with respect to registrations made for services after September 30, 1981.

Under section 235 of existing law the Secretary must make every reasonable effort to secure counseling, testing, placement, and supportive and other services provided under any other Federal law for certified adversely affected workers. Under amended section 235 the Secretary is required to develop an employability plan for any adversely affected worker covered by a certification who is unemployed or underemployed, has registered with the State Job Service or equivalent agency, and for whom the Secretary determines there is no suitable employment available. The plan would be developed jointly by the State Job Service or its equivalent in cooperation with the worker and with the State Board for Vocational Education or equivalent agency, prime sponsors under the Comprehensive Employment and Training Act (CETA), and other public or private agencies and employers as appropriate. It would set forth (1) counseling, testing, placement, supportive and other services to be furnished to and utilized by the worker, and (2) such training, job search and relocation under sections 236, 237, and 238 as may be utilized beneficially by the worker. The Secretary shall, whenever appropriate, procure or provide training and employment services through agreements with cooperating State agencies or through other appropriate governmental agencies or private sources.

Under section 236(a) of existing law, the Secretary of Labor may, but is not required to, approve training (on-the-job insofar as possible) for an adversely affected certified worker if he determines there is no suitable employment available but would be if the worker received appropriate training. Section 104 of the bill amends section 236(a) to make training an entitlement if certain conditions are met. The Secretary shall, rather than have discretion to, approve training for a worker if he determines that (1) there is no suitable employment (which may include technical and professional employment) available for a worker for whom an employability plan is developed under amended section 235; (2) the worker would benefit from appropriate training; (3) there is a reasonable expectation (not necessarily a prior guarantee) of employment following completion of training; (4) training approved by the Secretary is available to the worker from governmental or private sources (which may include area vocational education schools and employers); and (5) the worker is qualified to undertake and complete such training. Upon the Secretary's approval of the training, the worker shall be entitled to have payment of the training costs paid on his behalf by the Secretary.

Insofar as possible, the Secretary of Labor shall provide or assure provision of training on the job, which shall include related education necessary to acquire skills needed for a position within a particular occupation. The purpose of this amendment is to ensure that on-the-job training does in fact provide the skills necessary for the worker to obtain employment in a particular occupation rather than simply a job on a particular site. If institutional training is appropriate, the Secretary shall give priority to provision of that training in public area vocational education schools if he determines such schools are at least as effective and efficient as other institutional alternatives. In the interest of conserving Federal funds and more fully utilizing existing publicly-funded resources, the Committee believes that priority should be given to institutional training in public area vocational education schools if the institutional training they have available is as effective and efficient, including in cost, as that available from private schools for meeting particular training needs.

An employability plan would be prepared and employability services and/or training may be provided certified workers who register with the appropriate State agency even though they may not have yet exhausted their rights to unemployment compensation and become eligible for TRA benefits. As provided in section 102, workers should be given information about such services and should also be encouraged to register with the State agency at the earliest possible date in order to maximize their reemployment prospects. It is the Committee's understanding that application of the EB work test prior to the worker's eligibility for TRA benefits would require mandatory work registration for those workers whose prospects of returning to work in their customary occupation within a reasonably short period are not good. If the worker has already entered approved training, the EB work test would not apply. Otherwise, registration at that time would be the latest date from which development of an employability plan would be required.

For purposes of amended sections 235 and 236 the term "suitable employment" is defined to mean "work of a substantially equal or higher skill level" than the worker's previous adversely affected employment "at not less than 80 percent of the worker's average weekly wage." Consequently, an employability plan will be developed and employment services under section 235 and training under section 236 may be provided workers even if "suitable work" as defined under the EB test is available to a certified worker when he becomes eligible for TRA benefits. While a worker would be obliged to accept EB suitable work pending training, section 236 as amended specifically provides that a worker may not be determined ineligible or disqualified for UI or TRA benefits or for employment services, training, supplemental assistance, or job search and relocation allowance benefits because of leaving work which is not suitable employment in order to enter training, or because of the application to any week in training of provisions of State law or Federal UI law relating to availability for work, active search for work, or refusal to accept work. The Committee believes it is in the interest of the Nation's overall standard of living as well as that of individual workers to seek their reemployment in equal or higher skill and wage level occupations rather than to force or retain them in minimum wage or State UI benefit level jobs.

Section 236(b) of the Trade Act authorizes supplemental assistance necessary to defray transportation and subsistence expenses for separate maintenance when training is provided in facilities beyond commuting distance of the worker's regular place of residence. Payments for subsistence cannot exceed $15 per day: payments of transportation expenses cannot exceed 12 cents per mile. In light of inflation since the expense allowance levels were established in 1974, section 104(b) of the bill increases the supplemental assistance payments the Secretary may authorize for "reasonable" transportation and subsistence expenses which cannot exceed (1) for subsistence, actual per diem expenses or 50 percent of the prevailing per diem allowance rate authorized under the Federal Travel Regulations, whichever is less, and (2) for travel expenses, the prevailing mileage rate authorized under the Federal Travel Regulations.

e. Job Search and Relocation Allowances (Sections 105 and 106)

Sections 105 and 106 of the bill increase the levels of job search and relocation allowances and amend the time limits for application under sections 237 and 238 of the Trade Act. The amendments take effect with respect to applications for allowances filed after September 30, 1981.

Section 105 amends the provisions for job search allowances under section 237 in three respects. It amends section 237(a) to eliminate the present requirement that a certified worker must be totally separated before filing an application for a job search allowance. The amendment would enable partially separated workers covered by a certification to apply for allowances in anticipation of possible total layoff, thereby expediting the receipt of job search allowances once layoff occurs. Section 105(a) also amends section 237(a) to increase reimbursement for job search expenses from the present 80 percent to 90 percent of necessary expenses as prescribed by regulations, and to increase the present $500 maximum job search allowance to a maximum $600 reimbursement. Under existing regulations, maximum expense levels of which 80 percent may be reimbursed are $17 per day for subsistence ($12 per day for lodging, $5 per day for meals) and 12 cents per mile for auto travel. The Committee understands that current practice will continue of establishing by regulation the same expense levels for job search allowances as for supplemental training subsistence and transportation allowances. Section 105 stipulates that reimbursement cannot be made for subsistence and transportation expenses exceeding those under amended section 236(b).

Section 105 amends section 237(b)(1) to provide that no job search allowances will be granted unless and until an adversely affected worker has been totally separated, even though such a worker may file for the allowances prior to his total layoff. It also amends section 237(b)(3) to extend the time limit within which a worker must file an application for a job search allowance to one year after the date of his certification of eligibility to apply for adjustment assistance or one year after the date of his last total separation, whichever is later. A worker referred by the Secretary of Labor to training may apply within six months after the completion date of his training. Under present law a certified worker must file an application no later than one year after the date of his last total separation or within a reasonable period of time (6 months by regulation) after completing training. Under these time limits, a worker may be denied an opportunity to apply for job search allowances since the date of his last total separation may occur 14 months prior to the date of his certification or even earlier since certifications are often not made within the 60-day statutory time limit. The amendments will provide a more realistic deadline by triggering the time limit from the date of the required certification if later than the date of last layoff.

Section 106 contains similar amendments to the provisions for relocation allowances under section 238 of the Trade Act. It amends section 238(a) to eliminate the present requirement that a certified worker must be totally separated before filing an application for a relocation allowance. The amendment would enable partially separated workers covered by a certification to file for moving and related expenses in anticipation of total layoff and relocation, thereby expediting the receipt of relocation allowances if layoff takes place.

Section 106 also amends section 238(a) to provide definite time limits within which a worker must file an application for a relocation allowance, i.e., within 14 months after the date of his certification of eligibility to apply for adjustment assistance or 14 months after the date of his last total separation, whichever is later. A worker referred by the Secretary of Labor to training may apply within six months after the completion date of his training.

As provided under amended subsections (b) and (c), a worker would have to be totally unemployed and his relocation occur within six months after filing the application or concluding training to actually receive a relocation allowance. TRA eligibility would no longer be a requirement for entitlement to a relocation allowance.

Finally, section 106 amends section 238(d) of the Trade Act to increase relocation allowances from 80 percent to 90 percent of reasonable and necessary expenses, and to increase the additional lump sum payment from a $500 to $600 maximum. As in the case of job search allowances, allowable expenses for subsistence and transportation would be consistent with and not exceeding the levels established for supplemental training assistance under section 104(b). These amendments are consistent with comparable increases in job search allowances under section 105.

f. Recovery of Overpayments (Section 107)

Section 107 of the bill broadens as of date of enactment of this Title the present provision under section 243 of the Trade Act relating to the recovery of overpayments in order to protect program funds, and substitutes a national rule for recovery of non-fraudulent overpayment for the State rules that apply under existing law. Under existing law, if a cooperating State agency, the Secretary of Labor, or a court of competent jurisdiction finds an overpayment resulted because any person has made or caused to be made a false statement or representation of material fact knowing it to be false, or has knowingly failed or caused another to fail to disclose a material fact, such person is liable to repay that amount or it may be recovered by deductions from amounts payable to that person under the trade adjustment assistance program. Non-fraudulent overpayments are recovered or waived in accordance with the applicable State law.

Section 243 as amended by the bill makes a person receiving an overpayment, whether fraudulent or otherwise, liable for repayment, subject to discretionary waiver by the State agency or the Secretary of Labor upon determination that the payment was made without fault of the individual and that requiring repayment would be contrary to equity and good conscience. Unless otherwise recovered or waived, the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to the person under the trade adjustment assistance program or under any other Federal law administered by the State agency or by the Secretary providing payments for unemployment. Notwithstanding any other provisions of State law or Federal law to the contrary, the Secretary may require the State agency to recover any adjustment assistance overpayment by deduction from any UI payable to the person under State law. No single deduction can exceed 50 percent of the amount otherwise payable. In the case of false statement or representation or of nondisclosure, the individual would also be ineligible for any further trade adjustment assistance payments. No repayment may be required or deduction made without notice to the individual of the determination, an opportunity given for a fair hearing, and until the determination has become final.

g. Authorization of Appropriations (Section 108)

Section 245 of the Trade Act provided for the establishment of a trust fund and authorized the appropriation from customs revenues of such sums as may be necessary to carry out the program, including training costs. This trust fund was never established. One of the major shortcomings and criticisms of the program in providing positive adjustment has arisen largely because only minimal funds have been allocated annually from a discretionary fund of the Secretary of Labor under CETA for training costs. Since the Trade Act program began, annual funding for training has never exceeded $16 million, and is only $8 million in fiscal year 1981 for training, job search and relocation allowances combined. In comparison, expenditures for TRA entitlements have increased steadily from $70 million in fiscal year 1976 to a projected $2.7 billion in the current fiscal year. In fiscal year 1980 alone about 5,600 workers paid the costs of their own approved training courses. In some other cases, State agencies have told workers not even to apply for training because Federal funds to pay for the training costs were not available.

Section 108 of the bill deletes the provision of the trust fund and replaces it by two authorizations of appropriations to the Department of Labor: (1) such sums as may be necessary for purposes of carrying out the certification, TRA benefit, and employment service provisions; and (2) not less than $112 million for each of fiscal years 1982 and 1983 for carrying out the training, job search, and relocation provisions. and of which amount 5 percent is authorized for purposes of an evaluation of the effectiveness of the trade adjustment assistance program. It is the Committee's understanding that the Administration intends to request an appropriation of $112 million for fiscal year 1982 for these purposes. Section 104 of the bill requires a quarterly report to the Congress from the Secretary of Labor on the amount of funds expended for training during the previous quarter and the anticipated demand for training in any remaining quarters.

By making training an entitlement and authorizing not less than $112 million annually in fiscal year 1982 and 1983 for training, job search, and relocation, the Committee emphasizes that worker training is the most important aspect of the adjustment assistance program. The entitlement also ensures that the Administration will request adequate appropriations from the Congress to meet worker demand for approved training and that the availability and approval of training will no longer be contingent on its priority relative to other demands on the allocation of discretionary funds.

h. Definitions; Conforming Amendments: Effective Dates and Transitional Provisions (Sections 109, 110, and 111)

Sections 109 and 110 of the bill amend certain definitions of terms and make conforming amendments in existing law. Section 111 provides a date of enactment effective date except as otherwise specified and transitional provisions for workers receiving or entitled to receive TRA benefits for weeks of unemployment prior to October 1, 1981.

2. PART B: TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

a. Group Eligibility Requirements (Section 121)

Section 121 of the bill amends the criteria for certification of individual firms as eligible to apply for adjustment assistance to conform to the stricter import causation standard adopted under section 101 for certification of groups of workers. Section 121 would require that increased imports of articles like or directly competitive with articles produced by the firm be a "substantial cause" of, rather than "contribute importantly" to, the total or partial separation of the workers from the firm and its decline in sales and/or production. "Substantial cause" is defined as "a cause which is important and not less than any other cause." The same guidelines should be used in applying this stricter standard as described above for the same criteria under the worker program. The amendment would apply to petitions for certification filed under section 251 of the Trade Act on or after the date of enactment of this Title, and to petitions filed before date of enactment if the Secretary of Commerce has not made a determination regarding certification.

b. Technical Assistance (Sections 122 and 128)

Sections 122 and 128 of the bill provide authority in the Trade Act to continue current practice under the program with respect to technical assistance. Applications for technical assistance accepted by the Secretary of Commerce before the date of enactment of this Title will continue to be processed under existing law.

Under section 253(a) of the Trade Act the Secretary of Commerce may furnish technical assistance only to a certified firm in developing and/or implementing a proposal for its economic adjustment. However, under authority of the Public Works and Economic Development Act of 1965, as amended (PWEDA) the Secretary currently also provides pre-certification technical assistance to firms in preparing their petitions for certification.

Section 253(a) as amended by section 122 of the bill would provide authority under the Trade Act for the Secretary to provide technical assistance to a firm in preparing its petition for certification under section 251, as well as to a certified firm in developing and/or implementing its economic adjustment proposal. The purpose of the amendment is to preserve current program practice following its scheduled transfer within the Department of Commerce from the Economic Development Administration (EDA) to the International Trade Administration (ITA).

Section 253(b) of existing law authorizes the Secretary of Commerce to furnish technical assistance through existing agencies and through private individuals, firms, or institutions, including private consulting services. Under current program practice, regional Trade Adjustment Assistance Centers (TAACs), comprised of private sector nonprofit organizations, universities, research institutes, and State agencies, have been established as the primary vehicles for providing technical assistance. Administrative expenses have been funded through grants from the Secretary of Commerce under PWEDA authority.

Section 253(b) as amended by section 122 of the bill provides specific authority under the Trade Act to furnish technical assistance to firms by grants to intermediary organizations such as the TAACs, which grants may defray up to 100 percent of their administrative expenses. No change is made in existing authority of the U.S. Government to bear a maximum of 75 percent of the cost of technical assistance furnished through private individuals, firms, or institutions.

Section 128 of the bill adds a new section 265 to the Trade Act authorizing the Secretary of Commerce to provide technical assistance of up to $2 million annually per industry, on terms and conditions he deems appropriate, to establish industry-wide programs for new product or new process development, export development, or other uses consistent with adjustment assistance objectives. It may be furnished through existing agencies, private individuals, firms, universities, and institutions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit industry organizations in which a substantial number of firms have been certified under section 251. No authority currently exists under the Trade Act for technical assistance on an industry-wide as opposed to individual firm basis. However, a number of import-impacted industries, including footwear and apparel, have received such assistance through special programs established under authority of the PWEDA. This amendment to the Trade Act will enable such programs, which have proven quite effective, to continue if EDA is abolished.

c. Financial Assistance (Sections 123–126)

Sections 123–126 of the bill make minor modifications in the Trade Act with respect to interest rates on loan guarantees and maximum loan maturities, to ensure the validity of guarantees, and in the conditions for providing financial assistance. Applications for financial assistance accepted by the Secretary of Commerce prior to the date of enactment of this Title will continue to be processed under existing law.

Under section 255(b) of the Trade Act the Secretary of Commerce cannot guarantee a loan to a firm at an interest rate higher than the maximum rate a participating bank may establish on guaranteed loans made under section 7(a) of the Small Business Act. Section 255(c) as amended by section 124 of the bill prohibits the Secretary from guaranteeing a loan if (1) he determines that the interest rate on either the portion to be guaranteed or on the portion not to be guaranteed is excessive when compared with other loans bearing Federal guarantees and subject to similar terms and conditions, and (2) the interest on the loan is exempt from Federal income taxation under section 103 of the Internal Revenue Code of 1954. The existing interest rate under section 255(b) on direct loans would remain unchanged.

The purpose of the first amendment is to give the Secretary greater flexibility and latitude in determining whether to guarantee a loan based on whether the interest rate is in accord with existing conditions in the free market rather than with a rate established periodically by a Government agency. Under existing law, if the SBA rate is lower than the free market rate, no bank would offer a loan at the SBA authorized rate. Under the amendment, if the SBA rate is higher than the free market rate, then the free market rate would prevail; if the free market rate is above the SBA rate, the Secretary may guarantee the loan if the rate is not excessive compared to other Federal-guaranteed loans subject to similar terms and conditions. The purpose of the second amendment is to prohibit guarantees on tax exempt bonds, i.e., industrial development bonds.

Section 255(c) of existing law prohibits the Secretary of Commerce from making a direct loan or guarantee of a loan exceeding a maturity of 25 years, including renewals and extensions. Section 124 amends section 255(c) to provide a maximum maturity, including extensions and renewals, of (1) 10 years on direct loans or loan guarantees to supply working capital, and (2) 25 years or the useful life of the fixed assets, whichever period is shorter, on direct loans or loan guarantees for land, plant, building, equipment, facilities, or machinery under section 254(b)(1). Under section 255(c)(2) the Secretary may renew or extend a loan or guarantee for an additional period of 10 years if he determines it is reasonably necessary for the orderly liquidation or servicing (i.e. restructuring) of the loan. The 10 year maximum maturity for working capital loans conforms to existing practice.

Finally, section 124 of the bill also amends section 255 (d) and (e) of the Trade Act to add provisions to make participation in the loan guarantee program more attractive to private lenders by giving them much greater assurance of a valid guarantee. The amendments (1) authorize the Secretary of Commerce to enter arrangements for servicing, including foreclosure, of direct loans or of loan guarantees or evidences of indebtedness on terms which are reasonable and protect U.S. financial interests; (2) explicitly permit the Secretary to enter guarantee agreements in which the loan is evidenced by multiple obligations for the guaranteed and non-guaranteed portions of the loan; and (3) provide that the guarantee agreement shall be conclusive evidence of the eligibility of any obligation for the guarantee and that the validity of the guarantee agreement is incontestable except for fraud or misrepresentation by the holder. Section 125 of the bill amends section 256(b) of the Trade Act to include an authorization of appropriations for the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary.

Section 125 of the bill also limits the principal amount of loans made or guaranteed by the Secretary of Commerce to the amount provided in advance in appropriation Acts. Existing law contains no limitation on the amount that may be guaranteed.

Section 126 of the bill amends section 257 of the Trade Act to add authority for the Secretary of Commerce, to the extent he deems it appropriate, to treat as privileged or confidential within the meaning of the Freedom of Information Act any record, material, or data he receives in connection with an application for financial assistance which contains trade secrets or commercial or financial information concerning the operation or competitive position of any business.

Section 126 also adds a provision to section 257 of existing law that direct loans or loan guarantees for the acquisition or development of real property or other capital assets shall ordinarily be secured by a first lien on the assets to be financed and shall be fully amortized. While the Government should attempt to obtain the preferred position on the collateral securing the loan or guarantee, the Secretary may make exceptions to these standards if necessary to achieve the objectives of the program as long as he develops appropriate criteria to protect U.S. interests.

d. Repeal of Transitional Provisions; Conforming Amendments; Effective Date (Sections 127, 129, and 130)

Sections 127, 129, and 130 of the bill repeal the transitional provisions under section 263 of the Trade Act, make conforming amendments to the Trade Act, and provide an effective date and transitional provisions for the amendments in the firm adjustment assistance program.

3. PART C: TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES; PROGRAM REAUTHORIZATION

a. Repeal of Adjustment Assistance Program for Communities (Section 141)

Section 141 of the bill repeals the trade adjustment assistance program for communities under Chapter 4 of Title II of the Trade Act as of the date of enactment of this Title. The program has never been utilized, some assistance to trade-impacted communities having been provided instead under the more flexible criteria of Title IX of the PWEDA.

b. Reauthorization of Adjustment Assistance Programs for Workers and Firms (Section 142)

Section 142 of the bill reauthorizes the trade adjustment assistance programs for workers and firms for one year by amending their termination date under section 284 of the Trade Act from September 30, 1982 to September 30, 1983.

B. Title II: Federal Old-Age, Survivors, and Disability Insurance Programs

1. PHASE-OUT OF POST-SECONDARY STUDENT BENEFITS (SECTION 201)

Present Law and Background

A student's benefit is payable to an unmarried child or eligible grandchild of a retired or disabled worker or of a deceased worker who was fully or currently insured if the child is a full-time student aged 18–21 or reaches age 22 before completing a semester or quarter.

EXPLANATION OF PROVISION

Section 201 of the bill would amend the provisions of the Social Security Act dealing with child's benefits to phase out over a 4-year period, beginning in January 1983, benefits to children between the ages of 18 and 22 because of their full-time attendance as students at institutions of higher education or other post-secondary schools. Children who are currently aged 18–22 and receiving benefits as full-time students as well as those who are enrolled as full-time post-secondary students in December 1982 or a prior month could continue to receive benefits until age 22, but would be precluded from receiving future benefit increases after the 1981 increase, and beginning in 1982 would receive no payments during the summer months, June through August, unless the student is enrolled in a full-time summer school program. A full-time "summer school program" will be defined in regulations established by the Secretary of Health and Human Services as one which requires attendance of at least 15 days in any 2 of the 3 summer months, June through August. Children age 18 and below would not be affected by any changes made by this provision. Also, children over 18 would continue to receive benefits until completion of their elementary or secondary education. Where the benefits of a family containing a post-secondary student are limited by the family maximum amount, the dollars resulting from reduction or elimination of the student's benefit will be re-distributed to the other family members up to the family maximum amount.

The Committee feels that the post-secondary student benefit does not coordinate with educational assistance programs that have been developed since the student benefit was established by legislation enacted in 1965. Educational assistance is granted more equitably and efficiently through those other Federal student aid programs. Your Committee also feels, however, that adequate notice of this change must be given families who may have anticipated receiving these benefits in the future.

2. TERMINATION OF MOTHERS' AND FATHERS' BENEFITS WHEN CHILD ATTAINS AGE 16 (SECTION 202)

PRESENT LAW AND BACKGROUND

A monthly benefit is paid to a widow (widower) or surviving divorced mother (father) if (1) the deceased worker on whose account the benefit is paid was fully or currently insured at time of death and (2) widow (widower) or surviving divorced mother (father) has 1 or more entitled children of the worker in her (his) care. These payments continue until the youngest child being cared for reaches age 18.

EXPLANATION OF PROVISION

Section 202 of the bill would end entitlement to benefits for the mother or father caring for a child who receives child's insurance benefits, when the child reaches age 16 (rather than age 18, as under current law). The provision would not apply in the case of a parent caring for a disabled child aged 16 or over. The provision would be effective with respect to current beneficiaries only at the end of two years after the month of enactment, but would be effective for parents becoming newly entitled in or after the second month after enactment. Benefits to the child or children in the family would continue until age 18 as under present law (or 22 as prescribed under section 201 of the bill).

Present law provides a parent's benefit on the assumption that the parent cannot work away from the home while a child under the age of 18 is in her (his) care. The Committee proposed this change in recognition of the fact that the extent of parental care ordinarily required for a child who is not disabled and is age 16 or over does not make it impracticable for the parent to work. The Committee feels, therefore, there is insufficient justification for continuing to provide these parents with social security benefits since it can be presumed they will be able to provide for their own support.

3. ELIMINATION OF MINIMUM BENEFIT LEVEL (SECTION 203)

Present Law and Background

Social security benefits are based on the worker's record of earnings under social security over his working career. Under current law for workers turning 62 after December 1978, if a worker's earnings record would produce a benefit less than $122 per month, the worker is awarded a minimum benefit of $122. If the worker is taking a reduced benefit before age 65, the benefit is reduced accordingly. Once the worker is on the benefit rolls at the minimum benefit level, the benefit is increased by the cost-of-living increases applicable to all social security benefits.

Explanation of Provision

Section 203 would eliminate the minimum payment floor for beneficiaries first becoming eligible for benefits after December 1981. Beneficiaries becoming eligible after that date would receive a benefit based strictly on their earnings record, and would continue to receive cost-of-living increases once on the benefit rolls.

The original purpose of the minimum was to raise retirement income for those with very low wage histories, as well as those who worked in jobs before social security was extended to their work. In the opinion of your Committee, the minimum benefit has outlived its usefulness and can generate windfall benefits to workers with substantial earnings not covered by social security. Criticism of the windfall aspect of the minimum has been growing because the minimum is increasingly going to people who were not primarily dependent on earnings from covered employment.

In general, low-paid workers who worked regularly under the social security program would not be disadvantaged if the minimum were eliminated. A regular worker retiring this year with lifetime earnings equal to the prevailing Federal minimum wage each year would get benefits substantially higher than the minimum. Also, the special minimum benefit provision for long-term, low-income workers would provide higher benefits for that group of workers.

Eliminating the minimum emphasizes that the Supplemental Security Income (SSI) program is an appropriate source of income for needy aged, blind, or disabled people. Those social security beneficiaries who qualify for the relatively lower benefit in the future who are needy could receive SSI to a greater extent at age 65 and after than is true today. The Committee believes that this is a more efficient and appropriate method of dealing with the problem of poverty for those who have only a marginal attachment to work covered by social security.

However, your Committee also felt that it would be both inequitable and administratively difficult to eliminate the minimum benefit for current beneficiaries. Those current beneficiaries who would not qualify for SSI benefits or have the reduction in their benefits replaced by other family benefits would suffer an arbitrary and precipitous loss of income at a time when their ability or resources to replace this income may be minimal. In addition, your Committee has substantial doubts that these beneficiaries could be located in a timely manner and is concerned that the administrative difficulties in locating these individuals and individually recomputing their benefits would impose an unreasonable burden on the Social Security Administration and its data processing capabilities.

4. ROUND BENEFITS TO LOWER DIME AND DOLLAR (SECTION 204)

Present Law and Background

Social security benefit amounts are rounded up to the higher 10 cents at each stage of computing the benefit.

Explanation of Provision

Section 204 provides for rounding benefit amounts down to the lower ten cents at each stage of computing benefits, except at the last step—the actual benefit amount payable per beneficiary. This would be rounded to the next lower dollar. For those beneficiaries electing supplementary medical insurance (SMI), the rounding would occur after the SMI premium was deducted from the OASDI benefit check. This provision applies to benefit amounts, including cost of living adjustments and benefit recomputations, computed after August, 1981.

5. REQUESTS FOR INFORMATION—COST REIMBURSEMENT (SECTION 205)

Present Law and Background

Provisions of the Pension Reform Act require administrators of most employee pension plans to furnish plan participants information concerning their accrued and vested benefit rights. In addition, employers are required to maintain records, in accordance with Department of Labor regulations, sufficient to determine the benefits which are, or may become, due to each employee. While some pension plans do not have the earnings information necessary to provide the required information, the Department of Health and Human Services does maintain it and has already received requests from some plans for complete earnings histories of plan members. The Department estimates that there will be requests for about 710,000 individual earnings histories during the next five years at an estimated cost of $35.5 million.

Explanation of Provision

Section 205 of the bill would make clear that reimbursement of these costs is not governed by the Freedom of Information Act or by the Privacy Act, which contain provisions limiting the extent to which the cost of furnishing information can be recovered. Under the provisions of these Acts, it is estimated that the allowable reimbursement would be no more than $7.5 million over the next five years. Thus, the cost to the social security trust funds over the same period would be $28 million. Section 205 would permit the Department to recover from the requesting party the full cost of retrieving and transmitting information for purposes of enabling pension plans to comply with the Pension Reform Act.

In addition to instances of furnishing information under the Pension Reform Act, there are instances where information furnished by the Department of Health and Human Services comes under the same restrictions as to full cost reimbursement because of the limitations in the Freedom of Information Act and the Privacy Act. Section 205 of the bill provides that the Department would have authority to recover the full cost of retrieving and transmitting any information requested for any other purpose not directly related to the administration of the program or programs under the Social Security Act. This authority, of course, would not be used to recover the full cost of furnishing to individuals information requested for social security program purposes. Changes made by this subsection are effective on date of enactment.

6. TRANSITION TO COST-OF-LIVING INCREASES ON A FISCAL YEAR BASIS (SECTION 206)

Present Law and Background

The cost-of-living increase provision enacted in December 1973 intentionally put the benefit increase on a fiscal year basis in order to avoid creating a substantial outlay increase in the fiscal year 1974 budget. The fiscal year at that time was on a July to June basis. In 1977, the fiscal year was moved to an October to September basis, but the month in which the benefit increase is provided was not similarly changed.

Explanation of Provision

Section 206 of the bill provides for moving the payment of the cost-of-living increase to October instead of July 1982. In addition, it provides that an ad hoc increase would be paid in July 1982 which would be equal to one-half the increase in the cost-of-living from the first quarter of 1981 to the first quarter of 1982.

In October, 1982 a second benefit increase would be computed based on the increase in the CPI from the first quarter of 1981 to the March through May period of 1982 (a fourteen-month inflation period as compared to the present 12-month period) and the remainder of the benefit increase equal to this amount would be paid. The October increase plus the ad hoc increase in July would equal the increase in the CPI over the 14-month measuring period. In this way, beneficiaries would receive a total increase based on 14 months of inflation, from January 1981 to March of 1982. Future automatic increases after 1982 would be based on the CPI change in the March through May period each year and would be payable in October of each year, restoring the payment to the first month of the fiscal year. The changes made by this section would also make corresponding changes in the cost of living adjustments provided under Tier 1 and the survivors and spouses's maximum benefits of Tier II of the Railroad Retirement Service, and under the needs-tested veterans' pension programs.

7. REIMBURSEMENT OF STATES FOR SUCCESSFUL REHABILITATION SERVICES (SECTION 207)

Present Law and Background

Under existing law, an amount equal to 1.5 percent of disability insurance expenditures is authorized to be expended from the social security trust funds for vocational rehabilitation. In recent years much less than this has been requested by the Administration and appropriated by the Congress.

Explanation of Provision

Section 207 of the bill would eliminate reimbursement from the trust funds to the state vocational rehabilitation agencies for rehabilitation services except in cases where the services have resulted in the beneficiary's performance of substantial gainful activity for a continuous period of 9 months. Such nine month period could begin while the individual is under a vocational rehabilitation (VR) program and may also coincide with the trial work period and during the individual's waiting period for benefits. The services must be performed under a State plan for vocational rehabilitation service under title I of the Rehabilitation Act (or its successor plan if rehabilitation services are transferred to the States under the President's block grant proposal). In the case of any State which is unwilling to participate or which does have a plan which meets the requirements of the Vocational Rehabilitation Act, the Commissioner may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals. The determination that the VR services contributed to the successful return of the individual to work and the determination of the costs to reimburse shall be made by the Commissioner of Social Security, in consultation with the Commissioner, Rehabilitation Service Administration, Department of Education, in accordance with criteria formulated by the Commissioner of Social Security, Post-employment services, including administration, counseling and placement costs would also be subject to reimbursement.

Changes made by this section are effective for services provided after October 1, 1981.

Your Committee believes that the responsibility for the rehabilitation of severely disabled persons lies primarily with the basic rehabilitation grant program and should not be financed in any major way by the social security trust funds. However, by providing trust fund reimbursement for services where it can be demonstrated that services resulted in the disabled person leaving the benefit rolls, your Committee believes the bill gives rehabilitation agencies sufficient incentive to attempt rehabilitation of social security disability beneficiaries.

8. TEMPORARY EXTENSION OF EARNINGS LIMITATION TO INCLUDE ALL PERSONS AGED LESS THAN 72 (SECTION 208)

Present Law and Background

Under present law in effect through the end of 1981) the earnings test applies until the month a worker reaches age 72. Under a provision of the 1977 Social Security Amendments, the age at which the test no longer applies is scheduled to be reduced to 70 beginning in 1982.

Explanation of Provision

Section 208 of the bill would keep the exempt age under the earnings test at age 72 for 1982. Beginning in 1983 it would be lowered to age 70.

9. RESTRICTION ON PAYMENT OF THE LUMP SUM DEATH BENEFIT (SECTION 209)

Present Law and Background

A lump sum death payment of $255 is payable on the death of a fully or currently insured worker to the surviving spouse or to the person or persons who assume responsibility for funeral expenses. Application for the lump sum death payment must be made within the two-year period ending with the second anniversary of the insured person's death. The lump sum death payment is paid to the deceased person's widow (or widower) if she (he) was living with the deceased when the insured person died. In the absence of such a surviving spouse, the lump sum death payment is paid on application to the individual who assumes responsibility for the payment of the burial expense of the deceased. If no one assumes responsibility for the payment of the burial expenses incurred through a funeral home within 90 days after the insured person died, the lump sum death payment is paid to the funeral home upon application.

Explanation of Provision

Section 209 would eliminate the lump sum death payment effective for deaths occurring after August, 1981 in cases where there is neither an eligible spouse nor an entitled child. Under the proposal only surviving spouses who are eligible, or would be eligible but for their age, to receive monthly cash survivor benefits upon the worker's death would receive the lump sum death payment. If there were no eligible spouse, the lump sum of death payment would be payable to any young child of the deceased worker who was eligible to receive monthly cash benefits as a surviving child. If there were no surviving spouse and the worker's children were all over 18 (or over 21 if full-time students), then no one would be eligible to receive the lump sum death payment.

The lump sum death payment has been frozen since 1954. Because it was intended only to provide a modest assistance in the worker's last illness and death and has a marginal relation to the basic social security program, your Committee feels this payment no longer meets the goals for which it was originally intended except in cases where the payment is made to a surviving spouse or child.

10. MODIFICATION OF MONTH OF INITIAL ENTITLEMENT FOR CERTAIN WORKERS AND THEIR DEPENDENTS (SECTION 210)

Present Law and Background

Under present law, social security benefits are payable for the whole month in which the beneficiary meets all requirements for eligibility, regardless of the point in the month the person actually became eligible (for example, if a worker reaches age 62 on June 15, he is eligible to receive a reduced benefit for the month of June.)

Explanation of Provision

Section 210 of the bill provides that in the case of workers retiring at age 62 and in the case of dependents (retiring at age 62) of retired workers, entitlement to benefits would begin with the first month throughout all of which the individual met all the requirements for eligibility. In the example above, the first month of eligibility would be July, and the worker's benefit would reflect 35 months of actuarial reduction, rather than 36. This change would not affect the disabled and their dependents who become entitled at the same time as the worker, although it would apply to dependents who came onto the benefit rolls at some point after the disabled worker becomes entitled. The bill would not affect entitlement to survivors' benefits, to reduced benefits for workers retiring after the month in which they attain age 62, to unreduced benefits in the month (and later months) that an otherwise entitled individual attains age 65, or to Medicare benefits. This provision is effective for months after August 1981.

C. TITLE III: UNEMPLOYMENT COMPENSATION, PUBLIC ASSISTANCE, AND LOW-INCOME ENERGY ASSISTANCE

1. PART A: UNEMPLOYMENT COMPENSATION AMENDMENTS

a. Elimination of National Trigger (Section 301)

Present Law and Background

Under current law, up to 13 additional weeks of extended unemployment compensation, beyond the usual maximum of 26 weeks of State benefits, are payable to unemployed individuals who exhaust their State benefits during periods of high unemployment. Extended benefits are payable in any State in which the insured unemployment rate (IUR—the percentage of workers covered by the State unemployment compensation program who are currently claiming State or extended benefits) is 4 percent or higher and, in addition, is 20 percent higher than it was during the same period in the previous two years. When the "20 percent" factor is not met, a State, at its option, may provide extended benefits when the State IUR reaches 5 percent, regardless of the rate in previous years. Thirty-nine States currently use this 5 percent optional trigger rate. Extended benefits are paid in all States, regardless of State unemployment rates, when the national IUR reaches 4.5 percent. This is referred to as the "national extended benefits trigger."

Fifty percent of the costs of extended benefits are paid from proceeds of the Federal unemployment tax and fifty percent are paid from State unemployment taxes.

Explanation of Provision

Section 301 would repeal the national trigger, so that extended benefits would be payable only in those States with insured unemployment rates as specified above. The provision would be effective for weeks beginning after the date of enactment.

b. Claims for Extended or Additional Compensation Not Included in Determining Rate of Insured Unemployment (Section 302)

Present Law and Background

Under current law, the insured unemployment rate (IUR)—used to determine unemployment levels for the purpose of triggering "on" extended unemployment compensation benefits—is calculated by dividing the average weekly number of individuals filing unemployment claims (including individuals filing claims for extended benefits) by the average monthly covered employment for the first four of the most recent six calendar quarters.

Explanation of Provision

Section 302 would exclude extended benefit claimants from the calculation of the IUR for extended benefits trigger purposes. Only individuals filing claims for regular unemployment compensation would be included in calculating extended benefits trigger rates.

The provision would be effective for weeks beginning after the date of enactment. For purposes of making IUR determinations for such weeks, the provision would be deemed to have been in effect for all weeks whether beginning before, on, or after the date of enactment. In order to reflect comparable averages for prior years, a State would have to adjust its prior IUR percentages.

c. Limitations on Unemployment Benefits Paid to Ex-Servicemen (Section 303)

Present Law and Background

Under current law, Federally funded unemployment benefits are provided to former military personnel upon their separation from military service if they meet the eligibility requirements of the State in which they apply for unemployment compensation. The military service of an individual qualifies as wages or employment in the determination of eligibility only if the person has served 365 or more continuous days (unless separated in a shorter period because of a service incurred injury or disability) and was separated under other than dishonorable conditions, for bad conduct or for the good of the service.

Explanation of Provision

Section 303 would increase from 365 to 730 days the length of continuous military service needed to qualify as employment for unemployment compensation purposes; require a four-week waiting period between the week in which an individual is separated from the military and the week in which he or she first becomes entitled to compensation; and limit an eligible ex-servicemember's total entitlement (including extended benefits) to no more than 13 times the weekly benefit amount payable for total unemployment. The provision would be effective with regard to new claims filed on or after October 1, 1981.

2. PART B: AID TO FAMILIES WITH DEPENDENT CHILDREN; CHILD SUPPORT ENFORCEMENT

a. Limitation and Standardization of Earnings Disregards (Section 321)

Present Law and Background

Under current law, in making an initial determination of a family's eligibility for Aid to Families with Dependent Children (AFDC), there is disregarded from earned income any expense reasonably attributable to the earning of income, including child day care costs. In determining the amount of benefits to which an eligible family is entitled, there is disregarded from earned income the first $30 of monthly earnings, plus one-third of remaining earnings, plus child day care costs and other reasonable work-related expenses. After these deductions, whatever income remains is used to reduce the amount of the AFDC grant. The "work-incentive" disregard ($30 plus one-third) applies only to those already receiving assistance, and does not apply to individuals who terminate or refuse employment without good cause, or who fail to report their earnings.

Explanation of Provision

Section 321 would increase the $30 per month disregard to $50; standardize and limit the work expense disregard; place a ceiling on child care costs; change the order of the "one third" disregard so it applies only to earnings remaining after all other disregards have been applied; and allow States to terminate or reduce the $50 and one-third disregards for families with earnings in excess of the poverty level (or, at State option, 200 percent of the State standard of need).

The provision would require States to disregard the following amount of earnings, in the following order:

(a) *Eligibility Determination.*—20 percent of gross earnings (monthly wages, salary or net earnings from self employment), plus the full amount of any costs incurred in producing self-employment income, up to a maximum of $175; child care costs up to $200 per child and $400 per family per month.

(*b*) *Benefit calculation.*—$50; 20 percent of gross earnings up to $175 per month; child care costs up to $200 per child and $400 per family per month; and one-third of remaining earnings.

For two-parent AFDC families, the provision would allow States to limit the disregards to 20 percent of gross earnings (up to $175 per month) for eligibility determination; and $50 plus 20 percent of gross earnings (up to $175 per month) for benefit calculation.

In addition, the provision would allow States to terminate, or phase-out gradually, the $50 and one-third work incentive disregards for families with earned income above the poverty level or, at State option, 200 percent of the State standard of need, after the family has had earned income and claimed the one-third disregard for a 12 month period.

Once applied, the reduction or termination of the $50 and one-third disregards could continue to be applied only so long as the earned income of the family continues to remain above the poverty level (or 200 percent of the State standard of need, if this option is selected). Except, in the case of a family that continues to receive AFDC, a State could continue the reduction or termination of the disregards for up to four months during which the earned income of the family was below poverty (or 200 percent of the State standard of need). In the case of a family to which the reduction or termination of the disregards has been applied and who loses eligibility for AFDC because countable earnings exceed the State payment level, the State could continue the reduction or termination of the disregards for four consecutive months following the loss of AFDC eligibility, if the family's earnings remain in excess of the poverty level (or 200 percent of the State standard of need).

Individuals who lose eligibility for AFDC payments because of the reduction or termination of the $50 and one-third disregards would remain eligible for Medicaid for 12 months after AFDC benefits cease.

The provision would become effective October 1, 1981.

b. Income of Stepparents (Section 322)

Present Law and Background

Under current law States are prohibited from assuming that the income of a stepparent is available to an AFDC child unless, under State law, stepparents are required to support stepchildren to the same extent that natural parents are required to support their children. Generally, income may only be counted in cases in which the welfare agency has received information that the stepparent's income is available to an AFDC child. However, States are allowed to prorate AFDC shelter and utility benefits when an eligible child lives with a relative, including a stepparent, who is not an AFDC recipient—as long as the total income exceeds the State's standard of need.

EXPLANATION OF PROVISION

Section 322 would require States to consider available to a child that portion of the income of a child's stepparent (living in the same home as the child) which exceeds (1) 20 percent of earnings, (2) an amount equal to the State standard of need for a family of the same composition as the stepparent and others living in the same household whom he claims as dependents for Federal income tax purposes, (3) amounts actually paid by the stepparent to dependents not living in the same household, and (4) payments of alimony or child support to individuals not living in his household. A State would have the option of establishing procedures and conditions under which the State could determine that a stepparent's income is not actually available to the children and, therefore, not make the reduction in benefits. The provision in current law which allows States to prorate shelter and utility benefits when a child lives with an ineligible relative could not be applied in cases where benefits are reduced as a result of this requirement. The provision would be effective October 1, 1981.

c. Retrospective Budgeting and Monthly Reporting (Section 323)

PRESENT LAW AND BACKGROUND

Current law does not specify a particular accounting period for determining AFDC eligibility and benefits, except that a person's income must be considered on a monthly basis. Federal statute also makes no mention of how frequently AFDC recipients must submit reports to the welfare agency. Under Federal regulations, however, each State may choose to pay "retrospectively" or "prospectively." "Retrospectively" means paying a recipient after a month has ended on the basis of the person's income during the month. "Prospectively" means paying a recipient during or before a month, based on what the recipient's circumstances are expected to be during that month.

If a State uses retrospective accounting, it must require monthly income reports from recipients with earned income, and may require reports from other recipients. As of March 1981, 12 States use the retrospective accounting method: Arizona, California, Idaho, Illinois, Kansas, Michigan, Montana, North Dakota, Oregon, South Dakota, Washington, and Wyoming. This method is also used in parts of Colorado. In addition, Minnesota, Missouri and Utah require monthly reports from those with earnings and with work histories, but use a prospective accounting method.

EXPLANATION OF PROVISION

Section 323 would require all States to determine monthly benefits retrospectively on the basis of the actual income of the previous month. (Eligibility would be determined on the basis of current month's circumstances.) For the first month of a family's eligibility, however, benefits would be determined on the current month's circumstances.

States would have to require all AFDC families to report monthly on income, resources and other factors which may affect eligibility or amount of payment. However, the Secretary could allow a State to require less frequent reporting for specified classes of recipients, if the State demonstrated the administrative cost of monthly reporting for such recipients would not be worthwhile. States would be required to take prompt action to adjust or terminate assistance on the basis of the report, or upon the failure of the family to furnish a timely report.

The provision also provides that, in any case where a determination is made to terminate, suspend, adjust (for overpayment), withhold. or reduce payment to a family, the family must be mailed a written notice of that action at least 10 days before the date the action is to become effective. The notice must include a statement of the action to be taken, the reasons and specific legal basis (including citation of applicable law and regulation) for the action, and the family's right to request a hearing and the circumstances under which payment will be continued if a hearing is requested. Such notice need not be mailed 10 days before the action is taken, but may be mailed to arrive no later than the date regularly designated for delivery of the payment affected by the action, in certain specified circumstances described in the provision.

A hearing (which may be a hearing before the State agency or an evidentiary hearing at the local level with a right to appeal to a State agency hearing) must be granted to any family that requests it, if the request is made within 90 days after notice of the reduction or termination of benefits has been mailed. As under current regulation, any such hearing would have to be consistent with the protections established by the Supreme Court in the case *Goldberg* v. *Kelly*. If the family requests a hearing within 10 days after the date on which adverse action is taken, payment must be either continued in full (where the request is made on or before that date) or reinstated in full in as short a time as possible but in any event within five days, and the action must be revoked until the hearing decision is issued. These payments would be subject to recovery or adjustment if the agency's action is sustained in the hearing process.

The section would be effective October 1, 1981. However, until October 1, 1983, the Secretary could waive the penalty for noncompliance with the retrospective accounting and monthly reporting requirements if he determines that a State is taking the necessary steps to implement them.

d. Assistance to Families Participating in State Work Experience Programs (Section 324)

Present Law and Background

Under current law, recipients of Aid to Families with Dependent Children are required to register for participation in the Work Incentive (WIN) program unless they fall within certain specified exempt categories (e.g., mothers caring for children under age 6). Under the WIN program, recipients are required to register for available employment or training in order to receive AFDC payments. Interpretation of Federal law by the Department of Health and Human Services prohibits States from using Federal AFDC matching funds for grants to persons who are required to perform work in return for AFDC benefits.

Explanation of Provision

Section 324 would establish specific conditions under which payments to AFDC recipients who participate in State "work experience programs" would be eligible for Federal matching funds, and would allow States to require certain AFDC recipients to participate in work experience assignments in which they would perform work in return for AFDC benefits. The Committee does not intend that this provision be interpreted as requiring States to establish a work experience program, or as requiring a State to have a work experience program in effect throughout the State. Furthermore, States would not be mandated to require all eligible AFDC recipients in the State to participate in a work experience program. Payments made to individuals participating in approved State work experience programs would continue to be considered AFDC benefits, and would not be considered wages for any purpose.

To be eligible for Federal matching funds, state work experience programs would have to ensure that work assignments take into account the physical capacity, skills, and experience of participants, and are appropriate in terms of the participants' health, family responsibilities, places of residence, and need for child care. Participants would have to be supervised and assignments would have to be monitored. The program must also ensure that participants will, to the extent feasible, be treated in the same manner as permanent employees with whom they are working. The Committee does not intend that this provision be interpreted as requiring eligibility for pension plans, unemployment insurance, or other similar benefits which may be available to persons with regular employee status; but rather that the work activities of participants be integrated with those of regular employees to the extent possible.

Under the provision, participants would be assigned work only if it is to be performed for a State or local public agency or a nonprofit organization. Work assignments would have to serve a useful public purpose, consist of work which would not otherwise be performed, and meet appropriate health and safety standards.

Work assignments could not displace permanent employees or jobs. No individual could fill a job opening as part of a work experience assignment when another person not participating in such an assignment is on lay-off from the same job or from a substantially equivalent job with the same employer; or when the job opening exists because the employer has terminated the employment of a regular employee or otherwise reduced his workforce with the intention of filling the opening with a work experience assignment participant.

The provision limits the number of hours a participant may work to no more than 8 hours during any day, and no more than 96 hours a month; or, if less, the number of hours obtained by dividing the participant's monthly AFDC grant by the highest of the wage rates provided by applicable Federal, State, or local minimum wage laws. (If no such law is applicable, the Federal minimum wage rate as set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938 would apply.) If a participant incurred reasonable and necessary work expenses due to his or her participation in a work experience assignment or job search activities, the State would be required to promptly reimburse the individual for such expenses.

Prior to referral to a work experience assignment, each individual would have to be appraised and have an employability plan developed as part of the WIN program or of a State-established program having substantially the same conditions and requirements. The provision would require that participants be given reasonable time (beyond the time actually working) to seek permanent employment, or available training to qualify for permanent employment, and be referred to permanent employment opportunities which become available during their participation in a work experience assignment. Furthermore, necessary and available counseling and job search assistance must be provided to participants.

An AFDC recipient would be exempt from participation only if he or she was (1) enrolled and attending full time in a school, college, or course of vocational training, or participating in a WIN program; (2) incapacitated; (3) age 65 or older; (4) a caretaker in the home where another member of the household requires the caretaker's presence because of the individual's illness or incapacity; or (5) currently employed for more than 20 hours a week.

If an individual who is not exempt from participation refuses to accept a work experience assignment, fails to report to or carry out such assignment, or fails to participate in job search as a part of or in addition to such assignment without good cause, the needs of that individual may not be taken into account in determining the family's AFDC benefit for such period as the Secretary (or the State in accordance with regulations of the Secretary) may specify in light of the nature and duration of the refusal or failure and the circumstances of the participant.

Federal matching funds would be available for State administrative costs, as specified by the Secretary. Such costs would not include amounts spent for materials or equipment.

The provision would be effective October 1, 1981, through October 1, 1987.

e. Eligibility for AFDC by Reason of Unemployment of Parent Who Is Family's Principal Earner (Section 325)

Present Law and Background

In 1961 Congress enacted temporary legislation allowing States at their option to provide assistance to families in which a parent was unemployed. In 1967 this legislation was made permanent, but eligibility was limited to families in which only the father was unemployed. In 1979 the Supreme Court held in *Califano* v. *Westcott* that the restriction to fathers was discriminatory. Since that time, the Department has been operating under an "unemployed parent" concept, and either parent may qualify as the unemployed parent, regardless of whether the other parent is employed.

Explanation of Provision

Section 325 would provide for eligibility (at the option of the State) for an unemployed parent, and would define an unemployed parent as the parent with the greater amount of earings in the 24-month period immediately preceeding application.

The provision would be effective October 1, 1981.

f. Adjustments for Incorrect Payments (Section 326)

PRESENT LAW AND BACKGROUND

Current law contains no provisions specifying how States are to treat overpayments and underpayments. In practice, States are allowed, but not required, to collect overpayments. Regulations prohibit recoupment of overpayments unless the recipient has income or resources, exclusive of the assistance payment, currently available in the amount by which the agency proposes to reduce payments. Thus, if the individual has no income or countable resource in excess of the AFDC payment, there can be no recovery of overpayments. There is one exception to this provision. Recoupment may be made where the overpayments were caused by the recipient's willful withholding of information concerning his income, resources, or other relevant circumstances. In such cases, the agency may recover, but, if recoupment is from current assistance payments, the State must do so in such a way as not to cause undue hardship to recipients.

States are also required by regulations to have provisions for prompt correction of underpayments to current recipients resulting from administrative error where the State plan provides for recoupment of overpayments. Corrective payments need not be made where the administrative cost would exceed the amount of the payment. Corrective payments may not be considered as income or resources for purposes of determining the recipient's continue eligibility and amount of assistance.

EXPLANATION OF PROVISION

Section 326 would require States to promptly take all necessary steps to correct any overpayments or underpayments. Recovery of overpayments would be made from current assistance payments, available income, or through legal processes. In the case of a current recipient, the amount recovered in any month could not exceed the amount, when added to the family's income, that would reduce the family's grant below 90 percent of the benefit for a family of the same size with no other income. A corrective payment of an underpayment could not be considered as income, and could not be considered a resource until the beginning of the second full month following receipt. The provision would be effective October 1, 1981.

g. Benefits for Dependent Children Who Are Age 18 or Over and In School (Section 327)

PRESENT LAW AND BACKGROUND

Under current law, States have options for establishing the maximum age of a dependent child eligible for assistance. States may choose to limit eligibility to a child who is under age 18 or may define a dependent child to include students age 18 through 20 who are regularly attending primary, secondary, vocational school, or college. At the present time, 43 States extend AFDC eligibility to students age 18 through 20. However, many States have chosen this option solely to enable them to include secondary school students over age 17.

Explanation of Provision

Section 327 would allow States who pay benefits to dependent children over 18 years of age (because they are in school) to limit eligibility at any age between 18 and 21. It is the Committee's intent to increase the flexibility of States in determining such individual's eligibility for benefits. At present, if a State wants to provide benefits on behalf of any "child" age 18 and over, it must provide them to all who meet the eligibility requirements, up to age 21. In other words, the State may not set the age limit at under 19 or under 20. The provision would continue to require the State to provide assistance on behalf of eligible children under age 18, but would allow the State to set the age limit for students at such higher age (not above 21) as it may specify.

The provision would also give States flexibility to establish different age limits for students in different kinds of school settings. States would be permitted to establish special conditions for the completion of educational or training activities, and to limit eligibility to attendance at specified types or levels of institutions or courses.

The provision would be effective October 1, 1981.

h. Eligibility of Aliens for AFDC (Section 328)

Present Law and Background

Under current law and regulations in order for an alien to be eligible for AFDC payments, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law." An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported by a "sponsor" in the United States. However, under current law, the income of a sponsor of an alien legally admitted to the U.S. is not counted as income available to the alien under the AFDC program.

Explanation of Provision

Section 328 would provide that, for purposes of eligibility for AFDC, legally admitted aliens who apply for benefits for the first time after September 30, 1981 would be deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States. The eligibility of such aliens for AFDC would be contingent upon their obtaining the cooperation of their sponsors in providing the necessary information to the State welfare agency to carry out this provision. The alien and sponsor would be jointly and severally liable for repayment of any benefits incorrectly paid because of misinformation provided by the sponsor or because of his failure to report, and any such incorrect payments not paid would be withheld from any subsequent payments for which the alien or sponsor would otherwise be eligible under the Social Security Act.

In deeming a sponsor's income to an alien under this provision, the alien's AFDC benefit would be reduced by the amount of any income deemed to him. Income deemed to the alien would be considered unearned income and would result in a dollar-for-dollar reduction in benefits. The amount to be deemed would be equal to the total monthly amount of earned and unearned income of the sponsor and the sponsor's spouse reduced by an amount equal to the sum of (1) the lesser of 20 percent of earned income, or $175; (2) the standard of need of the State for a family of the same size and composition as the sponsor and other individuals claimed by him as dependent (for Federal tax purposes) who are living in the same household as the sponsor; (3) any amounts paid by the sponsor to individuals not living in the household who are claimed as dependents (for Federal tax purposes) and (4) any payments of alimony or child support with respect to individuals not living in the household.

The amount of resources deemed to the alien would be equal to the amount of the resources of the sponsor and spouse as determined under the State's AFDC resource rules, reduced by $1,500.

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

Under the provision, the income and resources of a sponsor which are deemed to an alien in a family would not be considered in determining the need of other, non-sponsored family members (e.g. a child born after entry into the U.S.) except to the extent such income or resources are actually available to them.

The provision would not apply to any alien who is (1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; (2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act; (3) paroled into the United States as a refugee under section 212(d)(5) of such Act; (4) granted political asylum by the Attorney General under Section 208 of such Act; or (5) a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

i. Limitation on Resources (Section 329)

Present Law and Background

Under current law, in determining need for assistance, States are required to take into consideration any resources of a child or relative claiming assistance. Regulations allow States to exclude certain types and amounts of resources. These include an individual's home, personal effects, automobile and income producing property. In addition, the amount of real and personal property, including liquid assets, which a State is allowed to exclude may not exceed $2,000 for each individual recipient. States may allow reasonable proportions of income from businesses or farms to be used to increase capital assets, so that income may be increased. Regulations formerly required only that resources be "reasonably evaluated." However, as a result of court action, resources must now be valued on the basis of equity value, rather than fair market value.

Explanation of Provision

Section 329 would reduce the $2,000 per recipient limit on resources contained in regulations to $1,500 per family (or lower, at State option). States would also be allowed to continue to exclude a home and a car; household and personal effects; life and burial insurance policies; tools, equipment and other income producing property; and such other noncash items as the State excluded on the day prior to the date of enactment of the bill. States would be allowed to continue to delay eligibility for AFDC in cases where assets were disposed of in order to qualify for benefits, as under current law. The provision would be effective October 1, 1981.

j. Collection of Support for Certain Adults Receiving AFDC (Section 331)

Present Law and Background

Under current law, applicants for, and recipients of, AFDC are required to assign all rights of support, including alimony, to the State for collection. However, Title IV–D of the Social Security Act only specifies that child support is to be collected. A State child support agency is not authorized to collect support (i.e., alimony) on behalf of a parent of a child for whom it is collecting child support. This is the case even when a court has ordered a single amount for both the parent and the child, without specifying the amount payable on behalf of each.

Explanation of Provision

Section 331 would permit the collection of alimony under Title IV–D of the Act. State child support enforcement agencies would be responsible for collecting support for adults, in those cases in which the support obligation has already been established, in the same manner as for child support.

The provision would be effective upon enactment.

k. Cost of Collection and Other Services for Non-AFDC Families (Section 332)

PRESENT LAW AND BACKGROUND

Under current law, States are required to provide child support collection services to non-AFDC families requesting assistance. States have the option of charging a fee up to $20 and of retaining a portion of the child support payments to recover costs of administration in excess of the application fee.

EXPLANATION OF PROVISION

Section 331 would require States to charge a fee equal to 10 percent of the support collected for non-AFDC recipients who use the child support enforcement agency collection services. The fee would be retained by the State. The provision would continue to permit the State to charge an application fee for other services that do not involve collection of support, such as establishing paternity or locating an absent parent. Under the provision, State claims for Federal financial participation under Title IV–D of the Act would be reduced by the total amount of fees charged or other income resulting from services provided by the child support agency.

The provision would be effective October 1, 1981.

l. Source of Incentive Payments to Cooperating Jurisdictions (Section 333)

PRESENT LAW AND BACKGROUND

Under current law, a 15 percent incentive payment is paid to States or political subdivisions that collect child support payments on behalf of another jurisdiction, financed entirely from the Federal share of the amount collected.

EXPLANATION OF PROVISION

Section 333 would require that incentive payments to States and political subdivisions come from the full amount of collections, rather than from the Federal share. The provision would require that the 15 percent incentive payment be reduced prior to the distribution of the balance of the amount collected as provided in section 457 of the Act.

The provision would be effective October 1, 1981.

m. Child Support Obligations Not Discharged in Bankruptcy (Section 334)

PRESENT LAW AND BACKGROUND

Under current law, child support obligations may be discharged in bankruptcy proceedings.

In 1974, legislation was enacted (Public Law 93–674) which prohibited the discharge in bankruptcy a child support obligation which had been assigned to a State as a condition of AFDC eligibility. This Social Security Act provision was subsequently repealed by section 328 of Public Law 95–598 (the 1978 revision of the Bankruptcy Act).

Explanation of Provision

Section 334 would reinstate the provision previously in effect which prohibits the discharge in bankruptcy a child support obligation assigned to a State as a condition AFDC eligibility. The provision would be effective upon enactment.

n. Child Support Intercept of Unemployment Benefits (Section 335)

Present Law and Background

Current Federal law requires the State agency charged with the administration of the State unemployment compensation law to disclose wage and other information related to the receipt of State unemployment compensation benefits, upon request and on a reimburseable basis, to any State or local child support enforcement agency. Under current law, there is no Federal requirement that unemployment benefits be withheld in cases of outstanding child support obligations. Some States do have such requirements in their State unemployment compensation laws or, as a matter of administrative practice, withhold from unemployment benefits amounts garnished for child support.

Explanation of Provision

Section 335 would require child support enforcement agencies to determine on a periodic basis whether any individuals who owe child support obligations enforceable by the agency are receiving unemployment compensation or trade adjustment assistance benefits (under chapter 2 of the Trade Act of 1974). The child support enforcement agency would be required to collect any outstanding child support obligations owed by an individual receiving unemployment benefits—through an agreement with the individual or, in the absence thereof, the legal processes of the State—by having a portion of the individual's unemployment benefits withheld and forwarded to the State child support agency. As a condition for receipt of Federal administrative grants under title III of the Social Security Act, agencies charged with the administration of the State unemployment compensation laws would be required to withhold and forward to the child support agency the amount of the individual's unemployment benefits specified in the agreement or otherwise required to be withheld as a result of legal process. An agreement to withhold less than the full amount owed would not excuse the individual's legal obligation. Amounts withheld would be forwarded to the child support agency.

Section 335 would require the State unemployment compensation agency to ask all new applicants for unemployment compensation to disclose whether they owe child support that is paid through any State or local agency or court (i.e., support obligations assigned to and or being enforced by the child support agency). If the applicant owes such support and is found eligible for unemployment benefits, the State unemployment agency must notify the appropriate State or local child support agency pursuant to section 454 of the Social Security Act. The provision would require the child support agency to reimburse the State unemployment agency for administrative costs incurred attributable to its participation in child support enforcement activities.

The provision would be effective upon enactment, but would not be a State unemployment compensation or child support enforcement plan requirement under sections 303 and 454 of the Social Security Act until October 1, 1982.

o. Internal Revenue Service Collection of Child Support and Alimony (Section 336)

Present Law and Background

Under current law, a State may request the Internal Revenue Service (IRS) to collect delinquent, court-ordered child support payments after the State has made diligent and reasonable efforts to collect the payments. Current law restricts IRS collection to delinquent "child support," although some court orders establish a single amount to be paid which includes alimony. The amount of the child support obligation must be certified by the Secretary of Health and Human Services before IRS collection procedures may be used.

Fourteen States have laws which establish an administrative process for establishing and enforcing child support obligations as an alternative to traditional court proceedings. These State laws provide due process of law by requiring notice, opportunity for a hearing, right to counsel and the opportunity to appeal to a court of law.

Explanation of Provision

Section 336 would permit the IRS, at the request of a State and subject to the same certification and other requirements in current law, to collect delinquent alimony as well as child support payments where alimony and child support are combined in a single order and the amounts for child support and alimony are not separately identified. The provision would also permit IRS collections in cases where child support/alimony obligations have been established under an administrative as well as court order (i.e. a rule or administrative adjudication by the appropriate State agency).

Under current law, States must pay a fee to the Federal government for each case referred to IRS for collection. Currently these fees are being deposited in the general fund of the U.S. Section 336 makes clear the Committee's intent that these reimbursements should be credited to the accounts of the Department of Treasury so that the IRS can be directly reimbursed for the costs associated with making those collections.

The provision would be effective upon enactment.

3. PART C: SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS

a. Retrospective Budgeting for SSI Benefits (Section 341)

Present Law and Background

Under current law, computation of SSI eligibility and amount of benefits is based on the income and resources for the calendar quarter. However, if the initial application for benefits is made during the second or third month of a calendar quarter, eligibility for and amount of benefits is calculated on the basis of the circumstances in that month. When an individual enters a hospital or other medical institution in which a major part of the bill is paid by the medicaid program, beginning with the first full calendar month the individual is in such institution, his monthly SSI benefit standard is reduced to $25.

Explanation of Provision

Section 341 provides that the computation period for determination of eligibility and amount of SSI benefits will be on a monthly basis. In most cases, benefits would be determined on a monthly retrospective basis; that is, the amount of the benefit for a month would be determined on the basis of income, resources, and other characteristics in the preceding month or, at the discretion of the Secretary of Health and Human Services, the second preceding month.

Under the provision, there would be certain exceptions to the monthly retrospective computation period. Eligibility would be based on the current month's circumstances. The amount of SSI benefits for the month in which the application is filed, or for the first month following a month of ineligibility, would be based on the income and other circumstances in the month for which the benefit is being determined. The Secretary would have discretion to extend this manner of computation of benefits to the month following the month in which the application is filed and to the second month following a month of ineligibility. For any month in which a significant change in living arrangements occurs (as determined by the Secretary), the amount of benefit would also be determined on the basis of the income and other relevant circumstances in the month for which the benefit is being determined.

The provision would also provide authority for the Secretary of HHS to waive retrospective accounting in the case of individuals in certain medical institutions in order to promote the individual's removal from a medical institution and into a less restrictive living arrangement more appropriate to his or her situation. The Secretary could use this waiver authority if he finds that it would promote the individual's removal in the following month from an institution to a less restrictive living arrangement. Thus, in some instances, the Secretary would have the authority to waive the reduction in the monthly benefit standard to $25 if a higher payment level would enable the individual to maintain a household to which he could be expected to return upon his release from the medical institution.

The section would provide authority for the Secretary to make a transitional payment or payments during the first two months for which the amendments made by this section are effective.

This section would be effective for months after the last month in the first calendar quarter ending at least five months after the month in which the bill is enacted.

b. Eligibility of SSI Recipients for Food Stamps (Section 342)

Present Law and Background

Under current law, SSI recipients in three States—Massachusetts, Wisconsin and California—receive a cash payment, as a part of the State supplemental SSI benefits, in lieu of food stamps. Massachusetts and Wisconsin are allowed to provide SSI recipients cash in lieu of food stamps because, and for so long as, the Federal Government continues to contribute to the cost of the State supplemental benefits as provided under the "hold harmless" provisions in present SSI law. (The SSI statute protects States—holds them harmless—from increased costs resulting from Federal eligibility and benefit requirements.) When California lost its hold harmless status, a separate law was enacted to allow it to continue to "cash-out" food stamps for SSI recipients so long as it continues to pass-through each year the Federal SSI cost-of-living increase and provides a yearly cost-of-living adjustment in its State supplemental benefit.

Explanation of Provision

Section 342 provides that, if a State cashed out food stamps for SSI recipients in December, 1980 and continues to meet the requirements for passing through the Federal cost-of-living increases in SSI, it may continue to provide cash in lieu of food stamps for SSI recipients.

c. Negotiability of SSI Checks (Section 343)

Present Law and Background

Under current Federal law there is no time limit on the negotiability of U.S. Treasury checks issued for the purpose of providing SSI benefits. When such checks are not cashed by the beneficiaries, the U.S. Treasury retains the funds which they represent. As a result, States which have an agreement with the Social Security Administration to include State-funded supplementation of the Federal SSI benefit in the check issued by the U.S. Treasury are precluded from recouping any State funds included in the unnegotiated checks.

Explanation of Provision

Section 343 would limit the negotiability of SSI checks to 180 days from date of issuance. The amount from such unnegotiated checks which represents a State supplementation payment would be returned to the State or credited to the State. The section also would require the Social Security Administration, to the maximum extent feasible, to determine the whereabouts and eligibility of those individuals whose benefit checks were not negotiated within the 180 day limit. It is the intent that the Social Security Administration is to make every effort to ensure that such individuals are assisted in obtaining the SSI benefits to which they are due.

This provision would be effective October 1, 1981.

d. Special Interim Cost-of-Living Increase in SSI Benefits (Section 344)

PRESENT LAW AND BACKGROUND

Under existing law, a yearly cost-of-living adjustment payable in the SSI checks received in July is made in Federal SSI benefits equal to the percentage adjustment provided for social security retirement and disability insurance beneficiaries. This is done through a reference in the SSI law to the cost-of-living adjustment provisions in Title II of the Social Security Act. Under existing law, the adjustment is based on the change in the Consumer Price Index (CPI) measured from the first calendar quarter of one year to the first calendar quarter of the next year.

The Committee's bill moves the payment of the cost-of-living increase in social security and, by reference in SSI, to October instead of July, after 1982.

To provide for a transition to the new October date for cost-of-living adjustments under social security, the Committee's bill in section 206 provides that an ad hoc increase equal to one-half the increase in the cost-of-living from the first quarter of 1981 to the first quarter of 1982 would be paid in July 1982. In October 1982, a second benefit increase would be computed based on the increase in the CPI from the first quarter of 1981 to the March through May period of 1982 (a 14 month inflation period as compared to the present 12 month period). This increase would be adjusted to reflect the ad hoc increase paid in July, so that the October increase plus the ad hoc increase in July would equal the increase in the CPI over the 14 month measuring period. In this way, beneficiaries would receive a total increase based on 14 months of inflation, from January 1981 to March 1982. Future automatic increases, after 1982, would be based on the CPI change in the March through May period each year, and would be paid in October of each year.

EXPLANATION OF PROVISION

Section 344 would conform the SSI law to the adjustments in cost-of-living in social security that will be made during 1982. In future years, SSI adjustments would continue to be made on the same basis as provided in Title II: they would be based on the CPI change in the period March–May of each year, and would be paid in October of each year.

4. PART D: ENERGY ASSISTANCE TO LOW INCOME HOUSEHOLDS

Program of Assistance (Section 361)

Section 361 amends the Social Security Act by adding a new title—"Title XXI—Energy Assistance to Low Income Households".

The following is a description of the new sections within the proposed new Title XXI of the Social Security Act including a comparison with the current law which expires September 30, 1981.

a. Appropriations Authorized (Section 2101)

Present Law and Background

Under present law, authority for providing low income energy assistance exists under both section 222(a)(5) of the Economic Opportunity Act of 1964 and the Home Energy Assistance Act of 1980 (Title III of the Crude Oil Windfall Profit Tax of 1980 (P.L. 96-223)). The Economic Opportunity Act does not specify a specific budget authority. The Home Energy Assistance Act authorizes $3.125 billion for energy assistance in fiscal year 1981. The authority under both Acts will expire on September 30, 1981 unless reauthorized by Congress.

Public Law 96-536, providing for continuing appropriations through June 5, 1981, appropriated $1.85 billion for low income energy assistance (LIEA) for fiscal year 1981. The funds are appropriated under the authority of the Economic Opportunity Act of 1964. However, the Continuing Resolution provides that LIEA shall be administered under the "terms and conditions" of the regulations and any "non-formula amendments thereto" published May 30, 1980 in the Federal Register pursuant to the Home Energy Assistance Act of 1980. Therefore, references to present law refer to provisions of the Home Energy Assistance Act except for instances in which specific changes were made by the Continuing Resolution.

Under present law, funds appropriated remain available until spent.

Explanation of Provision

The Committee bill would authorize a program of energy assistance for low income households for fiscal year 1982 and fiscal year 1983 by adding a new title to the Social Security Act: Title XXI—Energy Assistance to Low Income Households. The Act would authorize $1.4 billion for fiscal year 1982 and $1.6 billion for fiscal year 1983. The Act would require the Secretary of Health and Human Services to make payments to states that submit and have approved state plans for low income energy assistance. Funds appropriated under the Act would remain available until spent.

b. Allotments to States (Section 2102)

Present Law and Background

Of the $1.85 billion appropriated for fiscal year 1981 under present law, $1.776 billion is distributed as formula grants to States; $20 million is transferred to the Community Services Administration for energy assistance to native Americans and migrants; $4 million is set aside for Social Security Administration administrative costs; and $50 million is to be used to meet one of the provisions of the state grant allotment formula related to lessening the impact on certain states from the changes in the allotment formula. Allotments to States are made on the basis of a complex formula that was specified in Public Law 96–536 providing for continuing appropriations through June 5, 1981.

Explanation of Provision

The Committee bill would distribute 100 percent of the funds appropriated as grants to States. The funds would be allotted on the basis of States' allotment percentages. The allotment percentages would be defined as the shares of federal funds States are receiving under the formula provisions of the fiscal year 1981 program. This would include the provisions of the Continuing Resolution and its references to the Home Energy Assistance Act and fiscal year 1980 payments.

Under the Committee bill, the Secretary would be authorized to reallocate funds he determines will not be used by a State in a fiscal year. However, a State could request that up to 25 percent of its allotment for any fiscal year be held available for its use during the following fiscal year. The base used to determine the maximum a State may carry over would consist only of funds allotted to it during the current fiscal year, and would not include funds held over from any previous fiscal year. In order to reallocate, the Secretary would have to do the following: notify the chief executive officer of a state of the intent to reallocate a portion of its funds, publish notice in the Federal Register of the intent to reallocate, and receive comments for a 30-day period following publication of the notice. Any funds to be reallocated after this 30-day period would be treated as part of the funds available for allotment for the following fiscal year (to be distributed according to the State allotment percentages).

Similar to current law, the Secretary would be authorized to make payments directly to Indian tribal organizations if he determines that members of an Indian tribe would be better served through such direct grants. The allocation of the State in which the tribe resides would be reduced by the amount of any such direct grant.

As under present law, the Secretary could reserve, at the State's request, a portion of a State's allotment to make direct payment to qualified recipients of Supplemental Security Income (SSI).

There would be no federal limit on the maximum yearly benefit paid to households, in contrast to the fiscal year 1981 program. The Committee believes that the State should have flexibility in determining such limits as it believes appropriate, taking into account public comments received by the State on its proposed State plan.

c. State Plans (Section 2103)

Present Law and Background

Under present law, to receive a low income energy grant, a State must submit and have approved by the Secretary a plan which meets specified federal requirements. These plans must describe the program the State intends to operate, and demonstrate that assistance will be available through payments to home energy suppliers, eligible households in certain cases, combinations of supplies and households, and building operators in subsidized housing projects. Although benefit levels may vary according to such factors as type of fuel, household size or region, benefits must be scaled so they are highest for households with the greatest home energy costs in relation to income. Priority must be given to households with lowest income or with an elderly or handicapped member.

Explanation of Provision

As under current law, the Committee bill would require States to submit a plan for approval to the Secretary before receiving low-income energy grants. In recognition that energy related circumstances vary substantially among the States, the bill allows the States greater flexibility and discretion in the design and operation of their low-income energy assistance programs than allowed under current law. It is the clear intent of the Committee that any Federal regulations, requirements or restrictions promulgated in relation to the State plan requirements or any other provisions contained in this bill not undermine the ability of the States, or limit the flexibility necessary for each State, to design a program that (1) meets the particular needs of the State; (2) utilizes the most appropriate and effective administrative agencies and resources available to the State; and (3) allows for the timely and efficient payment of energy assistance to those in need.

Under the Committee bill, the State plan must provide for a State program for furnishing assistance in meeting home energy costs of households through payments to one or more of the following: (1) eligible households who need assistance to pay for the cost of heating; (2) eligible households who need assistance to pay for the cost of cooling; (3) home energy suppliers under agreements developed by the state; and (4) building operators in assisted housing projects.

In addition, the Committee bill would allow States the option of using federal low income energy assistance funds to purchase, provide and install conservation/weatherization materials. This would include the provision of devices to utilize renewable resources; and making improvements in heating or cooling systems designed to improve heating or cooling efficiency. Under the Committee bill, States would be responsible for determining what materials, devices and improvements would be provided. For example, States could include furnace retrofitting among the means to improve the efficiency of the heating system. Such weatherization/conservation activities could be conducted not only in single family dwellings but also in multi-family dwellings where a substantial number of households eligible under the State plan may live. The Committee bill would further provide greater flexibility by allowing States to meet energy-related emergency needs of eligible households, including in-kind assistance, without the three percent restriction in current law.

To the extent that it would not interfere with the efficient and timely payment of benefits, States would be required to provide the highest level of assistance to households with the lowest incomes and the highest energy costs in relation to income.

The Committee bill would require States to designate in their plans a State agency to administer the program, describe administrative arrangements for carrying out the program, assure equitable treatment of renters and owners, provide for public participation in the development of the plan, provide an opportunity for a fair hearing to anyone denied assistance or not served promptly, provide for coordination with related energy programs, and provide for appropriate and necessary outreach. States would also be required to establish procedures for monitoring assistance provided under the plan, including the monitoring and auditing of agreements entered into with home energy suppliers, and to establish fiscal control and fund accounting procedures to ensure proper use and accounting of federal funds. The Committee bill would further require States to submit whatever reports the Secretary may reasonably require with respect to the plan. However, the Committee expects the Secretary to request only information directly related to the plan which is necessary to ensure compliance with the plan and with the program's goals.

Any state plan meeting the above requirements would be approved by HHS. The Secretary could waive any requirement if such a waiver would enhance the ability of a State to design and operate a program that meets the particular needs of the State and allows for the timely and efficient payment of assistance. Before disapproving a plan, the Secretary would be required to give the State notice and opportunity for a hearing, as in present law.

d. Low Income Energy Grants to States (Section 2104)

Present Law and Background

Under present law, LIEA is 100 percent federally funded, except that States must pay 50 percent of administrative costs. The Federal Government sets maximum eligibility criteria. However, States may set eligibility standards at lower levels than the federal maximum. To be eligible for LIEA benefits households must have at least one individual who is "categorically eligible" or have a household income at or below the Bureau of Labor Statistics' lower living level. The one exception is that single person households may have incomes below either the lower living level or 125 percent of the poverty level. A categorically eligible individual is a person who is eligible for Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps, or certain veterans benefits. However, households eligible solely on the basis of eligibility for SSI are not eligible for benefits if the SSI recipient is in an institution receiving Medicaid, is a member of a shared household resulting in reduced SSI benefits (one-third reduction), or a child recipient of SSI living at home. In determining household income, States are required to use the procedure used in their AFDC program.

Explanation of Provision

The Committee bill would reimburse States for 100 percent of their expenditures, including administrative costs, incurred carrying out their State energy assistance plan in fiscal year 1982. The Federal government would pay 80 percent of these expenditures in fiscal year 1983.

No Federal payments could be made for assistance to a household unless the household has either at least one individual eligible for AFDC, SSI, Food Stamps, or certain veteran's benefits, or the household's income is below 150 percent of the poverty line or, at the option of the State, 60 percent of the State's median income (adjusted for family size). A State could establish a lower income eligibility level. The exclusion of certain SSI recipients, including those residing in certain institutions, would be continued. For determining household income, States could use the procedure they use in their AFDC program or other income assistance or service program.

e. Definitions (Section 2105)

Present Law and Background

Current law defines a household as any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent. Current law also defines home energy as a source of heating or cooling in residential dwellings. A definition of the Bureau of Labor Statistics' lower living standard income level, which is the income eligibility guideline used in the current program, is included in current law. Finally, current law defines State to include only the 50 States and District of Columbia. The outlying areas receive grants through a special set-aside.

Explanation of Provision

The Committee bill would define a household as all individuals who occupy a housing unit. The Committee bill would rely on the concept of a housing unit used by the Census Bureau. In general, one or more rooms occupied as separate living quarters would be considered a housing unit for purposes of the program. The Committee does not intend energy assistance to be available to institutions or military barracks, which would be excluded under the Census Bureau definition. The Committee, however, wishes to emphasize that it does intend that States be allowed to provide assistance to boarding homes and group homes whose residents meet other eligibility requirements.

The Committee bill, like the current law, would define home energy as a source of heating or cooling in residential dwellings. Definitions of the poverty level and State median income also would be included since a percentage of these standards would be used as the cutoff points for assistance. Poverty level would be defined in the Committee bill as the nonfarm poverty guidelines developed by the Office of Management and Budget. State median income would be defined as the State median incomes published by the Department of Health and Human Services (HHS) for use in Title XX of the Special Security Act, adjusted for household size. Further, the Committee bill, which would allocate funds to the outlying areas in the same way as States, would define "State" to include the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, in addition to the 50 States and District of Columbia.

f. Administration (Section 2106)

PRESENT LAW AND BACKGROUND

Current law requires the Secretary to publish regulations for the low-income energy program within 60 days of the law's enactment. The Secretary may delegate all functions, except the making of regulations, to any HHS officer or employee, and may use the services and facilities of other Federal or public agencies to administer the program. The current law also provides that assistance provided through the low-income energy program shall not be considered income or resources for any purpose under any other Federal or State law, and also amends the Food Stamp Act so that increases in State public assistance grants intended primarily to offset the costs of energy will not be considered income during fiscal year 1981 in the Food Stamp program.

EXPLANATION OF PROVISION

The Committee bill would require the Secretary of HHS to publish regulations within 60 days of the program's enactment, and would authorize the Secretary to delegate functions, except rule-making, to other HHS employees and officers. HHS would be authorized to use the services and facilities of other Federal or public agencies and would be required to set up procedures for Federal monitoring of State administration. The Secretary would be required to coordinate the program with related activities under the Economic Opportunity Act or other similar programs. The Committee bill would also provide that assistance provided to a household under this program would not be considered income or resources under other Federal or State laws. Further, payments would be authorized to States in installments in advance or by reimbursement, with necessary adjustments for over-payment or underpayments as in present law.

5. PART E: SOCIAL SERVICES

Limitation on Aggregate Title XX Training Expenditures in 1982 (Section 381)

PRESENT LAW AND BACKGROUND

Under current law, 75 percent Federal matching funds are available to States for training costs related to the Title XX social services program. These funds are in addition to matching funds provided under the Title XX social services program statutory ceiling. Beginning in fiscal year 1982 States are to be reimbursed only for those expenditures included in a State training plan approved by the Department of Health and Human Services. Under Title XX law, funding for training programs is on an open-ended entitlement basis. However, a limit of $75 million was placed on the appropriation for fiscal year 1981.

EXPLANATION OF PROVISION

Section 381 would continue through fiscal year 1982 the $75 million limitation on Federal Title XX funds that was in effect in fiscal year

1981. Each State will be allotted the same share of the $75 million in fiscal year 1982 as it was allotted in fiscal year 1981.

D. TITLE IV: MEDICARE AMENDMENTS

1. PART A: CHANGES IN BENEFITS

a. Elimination of Part A Coverage of Alcohol Detoxification Facility Services (Section 401)

PRESENT LAW AND BACKGROUND

Under Public Law 96–499, the Omnibus Budget Reconciliation Act of 1980, effective April 1, 1981, qualifying freestanding alcohol detoxification facilities are recognized as providers under medicare. As with hospitals, these facilities are reimbursed by medicare part A on a reasonable cost basis. In conjunction with the extension of coverage to freestanding alcohol detoxification facilities, Congress instructed the Secretary to undertake studies and demonstration projects on alcoholism rehabilitation, drug detoxification, and incentives for the use of lower cost freestanding detoxification facilities.

EXPLANATION OF PROVISION

The bill would repeal the existing medicare provision under which reimbursement for inpatient services in freestanding alcohol detoxification facilities is authorized. In addition, the bill provides for the cancellation of a number of studies and demonstration projects whose purpose was to evaluate the new coverage and its potential for expansion.

Repeal of this provision does not constitute repeal of coverage under medicare for inpatient detoxification services. These services have long been, and will continue to be, covered when provided by a participating hospital. The Committee felt that repeal of coverage for freestanding detoxification facilities eliminated the need for the proposed studies and demonstration projects.

This section is effective with respect to inpatient stays in detoxification facilities beginning on or after the tenth day after the date of enactment.

b. Nutritional Therapy Under the End Stage Renal Disease Program (Section 402)

PRESENT LAW AND BACKGROUND

Present medicare law provides no coverage for nutritional therapy for the treatment of end stage renal disease (ESRD).

EXPLANATION OF PROVISION

The bill would provide coverage under the medicare program for nutritional therapy, when it is used as a means of delaying, or substituting for, the provision of kidney dialysis, for those beneficiaries who would otherwise qualify for medicare benefits.

Nutritional therapy may, in general, be defined as the use of specifically manufactured foods that are of "high biologic value." These foods may help individuals with end stage renal disease to maintain an appropriate level of protein in their diet, while at the same time providing certain essential amino acids and sufficient calories to maintain nitrogen balance.

There is limited evidence that nutritional therapy may delay the necessity for renal dialysis or may result in a reduction in the number of renal dialysis treatments required. The Committee is aware that the use of nutritional therapy in the treatment of end stage renal disease is a new approach and, therefore, expects the Secretary to implement this provision in a manner which will ensure that payment will be made under this provision only where there is evidence that nutritional therapy is both medically necessary and cost-effective.

The Committee is concerned that little data is available regarding the costs of nutritional therapy supplies and other costs associated with nutritional therapy, and that nutritional therapy as a treatment modality is in the process of development and change. The Committee expects the Secretary of Health and Human Services (HHS), in consultation with experts in the fields of nephrology and nutrition (especially nutritional therapy) and with suppliers of nutritional therapy supplies, to establish regulations and guidelines for the coverage of, and reimbursement for, nutritional therapy supplies and related physician and other services.

Under current law, entitlement to benefits under part A of medicare and eligibility to enroll under part B begins with the third month after the month in which a regular course of renal dialysis is initiated. (In addition, eligibilty can be established by reason of kidney transplantation.) The bill would provide entitlement to benefits beginning with the earlier of the third month after the month in which a regular course of renal dialysis is initiated or the third month after the month in which a regular course of renal dialysis would have been initiated but was not initiated because nutritional therapy was provided. The Committee recognizes the difficulty in fixing a precise date on which renal dialysis would have begun, but expects the Secretary to establish guidelines and regulations to ensure that only those patients with end stage renal disease became eligible for medicare benefits under this provision.

The enactment of this provision shall not be construed as releasing the Secretary from his obligation, under Public Law 96–499, to study and conduct a demonstration project and submit legislative recommendations to the Congress by December 5, 1982, concerning the effectiveness of nutritional therapy in early renal failure in retarding or arresting the progression of the disease with a resultant deferment of dialysis.

The effective date of the section specifies that no person can establish entitlement to benefits under this provision on the basis of nutritional therapy furnished before October 1, 1981.

2. PART B: CHANGES IN COINSURANCE, DEDUCTIBLES, AND PREMIUM

a. $1 Copayment for Each of First 60 Days in Hospital (Section 411)

PRESENT LAW AND BACKGROUND

Present law imposes no copayment on medicare beneficiaries for the first 60 days of inpatient hospital services. Under current law, there is an inpatient hospital deductible roughly equivalent to the cost of one day of hospital care during each spell of illness. In addition, under present law, beneficiaries are responsible for a daily coinsurance amount, beginning with the 61st day of hospitalization, equal to one-fourth of the inpatient hospital deductible.

EXPLANATION OF PROVISION

The bill would make medicare inpatients subject to a $1 copayment for each of the first 60 days of care during a spell of illness.

The Committee has adopted the $1 per day copayment as a means of achieving a necessary reduction in medicare program costs in a way that is not unduly burdensome to individual beneficiaries.

This section is effective with respect to inpatient hospital services furnished on or after October 1, 1981.

b. Making Part A Coinsurance Current With the Year in Which Services are Furnished (Section 412)

PRESENT LAW AND BACKGROUND

Under present law, the part A coinsurance is determined as a fraction of the deductible in effect for the year in which a spell of illness begins. Thus, for the beneficiary who experiences a spell of illness that overlaps 2 or more calendar years, no adjustment is made in the part A coinsurance to reflect any change in the deductible.

EXPLANATION OF PROVISION

Under the bill, part A coinsurance will be based on the current year's deductible, rather than the deductible in effect at the time the beneficiary's spell of illness began.

The bill's requirement that part A coinsurance be based on the current year deductible will not only reduce medicare program costs but will also simplify administration by making part A coinsurance amounts the same for all beneficiaries regardless of when their spell of illness began.

This amendment is effective with respect to inpatient hospital services and post-hospital extended care services furnished on or after January 1, 1982.

c. Making the Part A Deductible and Coinsurance More Current (Section 413)

PRESENT LAW AND BACKGROUND

Under present law, a beneficiary is required to meet a deductible in each spell of illness before medicare payment for inpatient hospital care begins. Medicare also deducts from its payment for hospital stays that extend beyond 60 days and extended care stays that extend beyond 20 days coinsurance amounts that are calculated as a fraction of the inpatient deductible. In concept, the inpatient deductible increases each year to reflect the cost of one day's hospital care, but in practice the calculation lags about 2 years behind actual hospital cost increases.

EXPLANATION OF PROVISION

The bill would make the part A deductible and coinsurance amounts more current.

The Committee believes that the necessity of achieving a reduction in medicare program costs warrants making the deductible more reflective of the cost of 1 day's hospital care. This would be accomplished by adding $5 to the base figure of $40 in the formula that is used in the determination of the inpatient hospital deductible.

This section would become effective for inpatient hospital services and post-hospital extended care services furnished in calendar years beginning with 1982.

d. Elimination of Carryover From Previous Year of Incurred Expenses for Meeting the Part B Deductible (Section 414)

PRESENT LAW AND BACKGROUND

Under present law, the annual part B deductible for any year will be reduced by the amount of any covered expenses which the individual incurs in the last 3 months of the preceding calendar year even if these expenses were applied toward the deductible in the preceding year.

EXPLANATION OF PROVISION

The bill would repeal the provision of present law that permits medicare beneficiaries to count expenses incurred in the last quarter of the previous calendar year in determining whether they have met the annual part B deductible for the new year.

In the Committee's judgment, elimination of the part B deductible carryover provision is appropriate at a time when there is general agreement that steps must be taken to restrain the rising cost of the medicare program.

This section would become effective with respect to the deductible for calendar year 1982.

e. Increase In, and Indexing of, Part B Deductible (Section 415)

PRESENT LAW AND BACKGROUND

Under present law, medicare part B beneficiaries are subject to a $60 annual deductible and are thus responsible for the first $60 of the cost of covered services (with certain exceptions).

EXPLANATION OF PROVISION

The bill amends present law to increase the annual part B deductible from $60 to $70, and, beginning in 1983, to index the deductible so that it increases each year by the same percentage as the annual cost-of-living increase in monthly social security cash benefits.

Each year, beginning in 1982, the Secretary will announce the amount of the part B deductible for the next calendar year. The deductible will be rounded to the nearest multiple of $1. The Secretary's announcement will be made at the time the annual cost-of-living increase in monthly social security benefits is announced. The deductible increase announced will reflect the percentage increase in social security benefits in that year and will become effective on January 1 of the following year.

Despite the upward spiral of health care costs, no change has been made in the deductible since 1973. The Committee's decision to increase and subsequently index the part B deductible reflects its desire to restrain increases in the cost of the program without eliminating benefits or imposing unreasonable burdens on beneficiaries. Indexing the part B deductible makes its treatment consistent with the annual adjustment of the part A deductible and coinsurance, and the annual increase in the part B premium provided for under present law.

The increase in the deductible to $70 will become effective for expenses incurred during calendar year 1982. The indexing of the deductible will be effective for expenses incurred during calendar year 1983 and later years.

f. Changes to Part B Premium to Conform to Title II Changes (Section 416)

PRESENT LAW AND BACKGROUND

Under present law, persons age 65 and over may enroll in part B of medicare for coverage of physician and other services by paying a monthly premium. The premium is increased each July. (The present monthly premium is $9.60 and is scheduled to rise to $11 on July 1, 1981.) The maximum percentage by which the part B premium is permitted to increase each July is the percentage by which the monthly social security benefits have increased over the year.

The medicare part B premium is withheld from the monthly check of a social security beneficiary. The annual cost-of-living increase in monthly benefits is reflected in the benefit check received at the beginning of July, and the annual medicare part B premium increase is reflected in increased withholding from the same benefit check.

People aged 65 and over who are not entitled to monthly social security benefits may obtain medicare part A hospital insurance protection by enrolling and paying premiums based on the actuarial value of part A protection. To obtain part A protection, such persons must also be enrolled in medicare part B.

Present law requires the Secretary, during December of each year, to determine and announce the monthly medicare part B premium amount that will be in effect for the 12-month period commencing July 1 of the succeeding year. (A similar announcement regarding part A premiums is required during the last calendar quarter of each year.) In the past, a December announcement was necessary to assure that people considering whether to enroll in medicare during the annual January through March open enrollment period would be apprised of what their premium amounts would be the following July when their coverage began. However, recent legislation (Public Law 96-499) has eliminated the annual open enrollment period, providing instead for continuous open enrollment.

Explanation of Provision

Under the bill, medicare part B premiums (and Federal general revenue contributions toward the cost of part B) would be increased each year on October 1, rather than July 1. A corresponding change would be made with respect to part A premiums payable by eligible uninsured persons who purchase protection under medicare part A. These changes are made to conform with a change the bill makes in the date of the annual cost-of-living adjustment in monthly social security benefits payable under title II of the Social Security Act, in order to preserve the relationship between the timing of the annual increases in monthly benefits and the annual increases in medicare part B premiums.

Although the bill provides for an ad hoc increase in monthly social security benefits to be reflected in the benefit check received in July 1982 and for a subsequent increase reflected in the October 1982 check, the bill does not provide for an interim increase in medicare premiums. Instead, the medicare premium amounts and government contribution level applicable for the 12 months beginning July 1, 1981, will remain in effect through September 1982, and the permanent change to an October 1 premium increase date will occur on October 1, 1982. The October 1, 1982 premium increase will reflect the full amount of the increase in October plus the ad hoc increase in July.

The bill retains the requirement that the part B premium will increase by no more than the benefit increase percentage. Under the bill, the premium increase in each October may not exceed the monthly cost-of-living increase percentage that will be effective for September of that year and will be reflected in the October check. The amount of the premium that will be payable for the 12-month period beginning October 1 of each year will be announced by the Secretary before July 15 of that year. This announcement schedule will permit the Secretary to announce medicare premium amounts at the same time as the annual cost-of-living increases in monthly social security benefits are announced.

3. PART C: CHANGES IN REIMBURSEMENT

a. Offset of Interest and Other Income on Funded Depreciation (Section 421)

PRESENT LAW AND BACKGROUND

Medicare reimburses providers for necessary and proper interest on current and capital indebtedness. In general, interest and other investment income must be used to offset allowable interest expense for which a provider may be reimbursed. Current regulation exempts income earned on funded depreciation accounts.

Providers may set aside cash or other liquid assets in a separate fund, known as a funded depreciation account, which may be used for the replacement of assets or for other capital purposes. The provider usually deposits in such accounts monies equal to the amount of annual depreciation expense charged to costs. The Secretary through regulation and policy, and the Provider Reimbursement Review Board through its decisions have established which funds are considered funded depreciation.

The exemption of interest on funded depreciation from the offset of interest income was originally intended as an incentive for hospitals to set aside funds for the replacement of assets. It was believed that this would reduce the need for hospitals to borrow funds for which medicare would be required to reimburse interest expense. In practice, however, some providers have used such funds for capital expansion purposes other than those originally intended. Rather than using the funds for replacement of worn out assets, some hospitals have used the funds as sinking funds for the financing of hospital bond issues. Often, where sinking or reserve funds are required by the terms of a bond indenture, providers have used funded depreciation accounts for such purposes rather than those for which the account was established, thereby requiring the hospital to incur additional indebtedness for the replacement of assets.

EXPLANATION OF PROVISION

Under the bill, interest and other income earned on funded depreciation would be offset against allowable interest expense. The provision would be effective with respect to interest and other income earned on or after October 1, 1981.

b. Elimination of Occupancy Test for Hospital Long-term Care in Nonpublic Hospitals (Section 422)

PRESENT LAW AND BACKGROUND

Present law, as amended by Public Law 96–499, provides that, where a beneficiary who no longer requires acute hospital services must remain in the hospital because no long-term care bed is available in the area, the hospital will be reimbursed at a daily rate equal to the adjusted average medicaid skilled nursing facility (SNF) rate in the State for persons needing SNF services, and for purposes of medicaid, at the intermediate care facility (ICF) rate for patients needing ICF services. The reduced level of reimbursement does not apply where a hospital's annual occupancy rate is equal to or greater than 80 percent.

Explanation of Provision

The bill generally eliminates the special treatment of hospitals meeting the occupancy test thus, a hospital's occupancy rate would no longer be a factor in determining whether reimbursement is to be made at the reduced rate.

The bill makes an exception with respect to hospitals (generally, public hospitals), that derive less than 30 percent of their total income from nongovernmental sources; thus, for public hospitals, which serve as hospitals of last resort for the poor and many of which are financially distressed, the 80 percent occupancy test would be retained. In addition, the Committee bill specifies that the reduction in reimbursement would not be imposed with respect to any hospital if the Secretary determines that there is no excess of hospital beds in the area in which the hospital is located.

Elimination of the occupancy test reflects the Committee's view that, in a period when hospital costs are continuing to rise dramatically and numerous long-term care patients inappropriately remain in acute care hospital beds, it is appropriate to provide additional incentives for the establishment of needed long-term care beds, and especially for the conversion of acute care beds to long-term care beds. Where there is no excess of acute care beds in an area, however, the Committee believes it appropriate not to impose reduced reimbursement under the provision for hospitals in that area.

The Committee recognizes that in certain instances repeal of the 80-percent occupancy rate exemption will cause undue hardship. In order to alleviate such hardship, the Committee intends that the Secretary shall not penalize any hospital which has an annual occupancy rate of 80 percent or above and which can demonstrate to his satisfaction that in the hospital's own service area there does not exist in that area an excess of acute hospital beds which could accommodate long-term care (and SNF) patients.

The section is effective with respect to services provided by a hospital beginning with the month after the date of enactment.

c. Incentive Reimbursement Rate for Renal Dialysis Services (Section 423)

Present Law and Background

Amendments to the Social Security Act made in 1978, Public Law 95-292, were designed to accomplish several objectives including, among others, providing incentives for the use of lower cost, medically appropriate self dialysis (particularly home dialysis), as an alternative to higher cost institutional dialysis. With respect to the objective of increasing the use of lower cost medically appropriate home dialysis, the Committee notes that since enactment of the amendments of 1978 there has been a modest increase in the number of end stage renal disease (ESRD) patients self-dialyzing at home. Considering the rapid decline in home dialysis utilization during the initial 5 years of the program, this recent reversal of that decline is encouraging.

However, given the continuing escalation in both the population of ESRD patients and program costs and given current estimates that a substantially greater number of renal patients could be dialyzed in the home setting, the Committee believes that there is a need for increased efforts to stimulate greater growth in the percentage of patients dialyzing in the home. While the Committee recognizes that not all patients are medically appropriate candidates for home dialysis and some local variances in the proportion of home patients is understandable, there is concern that in most localities only a very small percentage of ESRD patients are dialyzing at home.

Public Law 95–292 authorized the use of an incentive reimbursement system with respect to payment for dialysis services provided to patients treated in facility settings. While no incentive method has yet been implemented, the Secretary has a proposal under consideration which would establish a single reimbursement rate for renal dialysis services provided in hospitals and free-standing facilities. This single facility reimbursement rate would be computed based on the cost experience of the more efficient facilities.

The Committee is concerned, however, that the provision of a single rate approach for facility services only (that is, not including home dialysis services) may have a negative impact on the Committee's stated objective of encouraging lower cost home dialysis. In effect, as the facility rate becomes more restrictive, the Committee is concerned that facilities are likely to limit home efforts in order to increase their facility patient population, retaining in the facility setting those stabilized patients who might otherwise be referred to home dialysis, in order to make up in volume for any reductions in the payment rate.

Explanation of Provision

The bill requires the Secretary of Health and Human Services to prescribe in regulations a method (or methods) for determining the amounts of payments to be made for renal dialysis services, incorporating in a single reimbursement rate structure, reimbursement for dialysis treatments in a facility and dialysis treatments in the home setting. The method promulgated by the Secretary would provide for a prospectively set rate (or rates) for each mode of care, and would be established on the basis of a single composite weighted formula taking into account the proportions of an institution's patients dialyzing in the facility and those dialyzing at home. If the Secretary, after detailed analysis, determines that an alternative rate setting method would provide greater incentives for increased use of lower cost home dialysis than would a single composite rate, such an alternative rate setting method may be promulgated. The Committee intends that the new method of payment for dialysis services may be used in lieu of present law provisions concerning target reimbursement for home dialysis services.

Because of its concern over the potential impact of the single facility rate, the Committee's bill would require the Secretary to examine an alternative method which would incorporate reimbursement for facility dialysis and home dialysis in one rate; that is, *a single composite rate*. The Committee expects the Secretary to consider the composite rate before any final regulations implementing any other changes in the renal dialysis reimbursement rate are promulgated. A composite rate could be developed by using the average costs of outpatient facility dialysis (based on the experience of more cost efficient facilities) and the average costs of home dialysis and applying different weights for each mode of care. Since the Secretary has been reimbursing under the medicare program for home dialysis services since 1973, adequate cost data should be available on which to establish costs for the home dialysis component of the composite rate. The weight factors applied could be related to the national proportion of patients treated in the facility and home settings as of the end of the most recent reporting year prior to implementation of a composite rate system. If, for example, the national patient distribution at the time of implementation was 85 percent in facility settings and 15 percent in the home setting, the outpatient facility component and home dialysis component could be given weights of 85 and 15 percent respectively. Thus, for illustrative purposes only, if it is assumed that the average cost for outpatient facility dialysis is $130 and home costs are $90, the basic formula for determining the applicable composite rate could be as follows:

$$\begin{array}{r} \$130\times.85=\$110.50 \\ +\$90\times.15=\quad 13.50 \\ \hline \text{Composite rate}=\$124.00 \end{array}$$

Under this approach, facilities will have not only an incentive to maximize the cost efficiency of their facility dialysis services but also to refer patients who are appropriate candidates for home dialysis to self care training and subsequent treatment in the home setting.

To preclude unreasonable profits for facilities with home populations substantially in excess of the national average, while at the same time rewarding them for their performance in supporting less costly care, the basic formula could be modified. For example, the formula could be modified to use 95 percent of such facility's most recent home patient population percentage, in lieu of the national home patient average, in determining the home dialysis weighting factor. If, for example, a facility has 30 percent of its patient population on home dialysis, the modified formula for determining the composite rate could be as follows:

$$\begin{array}{r} 95\%\text{ of }30\%=.285 \\ \$130\times.715=\ \$92.95 \\ +\$90\times.285=\quad 25.65 \\ \hline \text{Modified Composite Rate}=\$118.60 \end{array}$$

In this manner, potential profits for facilities performing above the national average with respect to placement in less costly home dialysis would be kept reasonable, but there would be a continuing incentive to refer suitable patients to home care.

Under a composite rate approach, facilities treating a maintenance dialysis population would be provided an incentive to offer home dialysis services. The composite rate should be adjusted periodically to account for changes in the average costs and changes in the relative weights attributable to each mode of care as the proportion of home dialysis patients rises. The composite rate would be payable to all facilities for all patients whether dialyzing in the facility or at home. However, it is the Committee's intent that an exception procedure would be applicable to accommodate the added costs of facilities, usually hospitals, whose dialysis services are largely geared to less stabilized, more costly patients, such as pediatric patients, pre- and post-transplant patients and those with other complicating conditions.

In determining the average costs for the home component of the composite rate, the Committee expects that the Secretary would take into consideration the average equipment and medical supply costs of home care and the average costs of providing appropriate support services to home patients. Support services include, but are not limited to, services by medical and nonmedical personnel who must be available to assist home patients with medical and social services and to provide technical support such as equipment maintenance and repair. Additionally, the Committee expects that, under a composite rate approach, all facilities would be required to assume responsibility for arranging for all necessary equipment and supplies, reimbursing suppliers providing these services and billing other supplementary third party insurers. These responsibilities will understandably generate added administrative costs for facilities, especially with respect to handling the collection of coinsurance from supplemental insurers, a function that, under current reimbursement practices, is often handled by individual suppliers of equipment and supplies. However, it is anticipated that, if a composite single rate reimbursement methodology were implemented, billing and collection of copay amounts from supplemental insurers would be simplified.

The Committee recognizes that some patients who are appropriate candidates for self-dialysis in the home may be precluded from treatment in that setting because of the absence of a family member or other individual to assist them with dialysis. This is particularly true with hemodialysis treatment as opposed to other treatment techniques, such as continuous ambulatory peritoneal dialysis (CAPD). While provision for the costs of providing for paid assistants for home patients would permit these patients to dialyze in the home setting, the increased labor costs that would result would virtually eliminate the relative cost effectiveness of home treatment. Although facilities would not be precluded from providing paid assistants to patients who require such services, under the composite single rate approach, a separate allowance for such costs in the home component of the composite rate would not be authorized.

The Committee believes the composite rate approach is one that may most effectively accomplish these objectives by encouraging all facilities to pursue the goal of increasing self care, particularly home dialysis. The determination as to where patients are treated, that is, facility, facility self-care, or home, and the type of treatment provided, such as hemodialysis, standard peritoneal or continuous ambulatory peritoneal dialysis remains the prerogative of the attending physician. No specific home dialysis goals are mandated but the reimbursement incentive should encourage the selection of the least costly medically appropriate form of treatment for each patient.

In addition, in a further effort to eliminate any remaining disincentives for home dialysis, the Secretary would be expected to consider some liberalization of reimbursement for home training expenses incurred by the patient and family member who will assist him or her with home dialysis.

This provision would apply to services furnished on or after October 1. 1981.

d. Limits on Reimbursement to Home Health Agencies (Section 424)

Present Law and Background

Present law authorizes the Secretary of HHS. in determining the reasonable costs of services furnished to medicare patients, to exclude costs estimated to be unnecessary in the efficient delivery of needed health services. In implementing this authority with respect to home health services, the Secretary has established a schedule of reimbursement limits for home health agencies which is updated periodically. The limits are expressed in terms of costs per visit, and although they are established by type of service (e.g., skilled nursing, home health aide), they are applied to each home health agency as a single aggregate limit, based on the agency's number of visits for each type of service. Currently, the limits under this methodology are set at the 80th percentile.

Explanation of Provision

The bill would reduce from the 80th to the 75th percentile the medicare reimbursement limits currently applied to home health agency costs, thus establishing a more stringent criterion for determining whether costs are excessive. In view of the need for cost constraint, the Committee believes these tighter limits are an appropriate means of encouraging efficient operation of home health agencies.

The Committee does not intend to preclude the Secretary from modifying in the future the methodology for establishing home health reimbursement limits and recognizes that, under a modified approach, it may no longer be appropriate to set the limits at the 75th percentile. For example, a limit determined in relation to the mean of per visit costs may in the future be found to be appropriate. Accordingly, the bill specifies that the limit is to be either at the 75th percentile or such lower percentile or such comparable or lower limit as the Secretary may determine. Whatever methodology is used, however, the intention is that the limits be set at a level no less stringent than what is represented by the 75th percentile under the current methodology.

Under a classification system used for determining and applying the current home health reimbursement limits, there are separate limits for provider-based (primarily hospital-based) home health agencies and for freestanding home health agencies. The limits for hospital-based agencies are significantly higher than those for free-standing agencies. Freestanding agencies have questioned the fairness of the separate category for hospital-based agencies, claiming that the separate limits discriminate against them and put them at a competitive disadvantage. Some have also suggested that subjecting provider-based home health agencies to the lower limits applicable to freestanding agencies would offer an opportunity for reduction in medicare program costs.

On the other hand, the justification given for the current use of separate limits is that they are necessary to avoid unjust reimbursement penalties resulting from medicare's hospital cost allocation requirements. These requirements force hospital-based home health agencies to include in their cost reports a share of the costs from the hospital's overhead accounts that is not directly commensurate with the costs incurred by freestanding agencies.

The Committee is concerned about the apparent anomaly of separate limits for hospital-based and freestanding home health agencies, despite the fact that both render similar services. Accordingly, the Committee expects the Secretary to make a comprehensive reassessment of the continued need for separate limits, of the prospects for revising medicare hospital cost-allocation procedures, and of other possible changes in response to concerns arising from the existence of separate limits. The Committee requests that the Secretary report to the Congress no later than January 1, 1982, on the findings of this study, and include in the report any planned or proposed changes relating to the issue of separate limits and the timetable for their implementation.

The provision of the bill is effective with respect to cost reporting periods of home health agencies ending after September 30, 1981, but the lower limits would be applied in proportion to that part of the agency's cost accounting period occurring after that date.

e. Limits on Reimbursement to Hospitals (Section 425)

Present Law and Background

Present law authorizes the Secretary of HHS, in determining the reasonable costs of services furnished to medicare patients, to exclude costs estimated to be unnecessary in the efficient delivery of needed health services. In implementing this authority with respect to inpatient hospital services, the Secretary has established a schedule of reimbursement limits on hospital inpatient general routine operating costs which is updated periodically.

The limits under the methodology currently in use are on a per diem basis and are set at 112 percent of the mean labor-related, and of the mean non-labor-related costs of each comparison group of hospitals.

Explanation of Provision

The bill would reduce from 112 to 108 percent of the mean the medicare reimbursement limits currently applied to hospital inpatient general routine operating costs, thus establishing a more stringent criterion for determining whether costs are excessive. In view of the need for cost constraint the Committee believes these tighter limits are an appropriate means of encouraging efficient operation of hospitals.

In recent years, a series of modifications in the methodology for determining hospital reimbursement limits has been implemented, to make more accurate and equitable the system for estimating costs in excess of those necessary in the efficient delivery of needed health services. The Committee does not intend to preclude the Secretary from further refining the methodology in the future, or from expanding it, for example, to encompass ancillary costs of hospitals. The Committee recognizes that under such a modified approach it may no longer be appropriate to set the limits at 108 percent of the mean. Accordingly, the bill specifies that the limit is to be either at 108 percent of the mean or such lower percentage or such comparable or lower limit as the Secretary may determine. Whatever methodology is used, however, the intention is that the limits be set at a level no less stringent than what is represented by 108 percent of the mean under the current methodology.

The section is effective with respect to cost reporting periods of hospitals ending after September 30, 1981, but the lower limits would be imposed only in proportion to that part of the hospital's cost reporting period occurring after that date.

4. PART D: MISCELLANEOUS CHANGES

a. Civil Money Penalties (Section 431)

Present Law and Background

Under present law, the Secretary of Health and Human Services has no independent authority to impose monetary penalties for fraudulent claims under the medicare or medicaid programs. Currently, the Secretary's authority is limited to barring practitioners or providers from participation or referring cases of criminal fraud to the Department of Justice for prosecution. The Secretary is authorized to bar from participation practitioners or providers who submit false or excessive claims (sections 1862 and 1866 of the Social Security Act) and is required to bar from participation those individuals who have been convicted of a criminal offense with respect to medicare or medicaid (section 1128).

Under both medicare and medicaid, acts of knowing and willful fraud as well as bribes and kickbacks are felonies punishable by a maximum fine of $25,000 or 5-years imprisonment (sections 1877 and 1909). However, such cases must be forwarded by HHS to the Department of Justice. Due to a large volume of cases, the U.S. Attorneys' offices are able to prosecute only those cases which involve a significant amount of money or which warrant imprisonment. As a result, such criminal penalties have proved an ineffective deterrent to fraudulent practices under medicare and medicaid. The Secretary is currently authorized to impose a civil money penalty only in cases where such a penalty has been recommended by a Professional Standards Review Organization.

Explanation of Provision

The bill authorizes the Secretary of Health and Human Services to impose a civil money penalty of not more than $2,000 for each item or service under a fraudulent claim for reimbursement under the medicare or medicaid programs. In addition to the penalty, the Secretary would also be authorized to impose an assessment of not more than twice the amount claimed for each item or service and to bar from participation in medicare, and the Federal portion of medicaid, any person determined to have filed a fraudulent claim.

The Secretary could impose a penalty in cases where the Secretary determines that the person knew or had reason to know that the item or service was not provided as claimed; where such person had been barred from participation under another provision of the Social Security Act; or where the claim was submitted in violation of an agreement between the person and the Federal or State government.

Proceedings to impose a civil money penalty would be initiated only as authorized by the Department of Justice pursuant to procedures agreed upon by both the Departments of Justice and HHS. Before the Secretary could impose a penalty or bar a person from participation, the Secretary would be required to give written notice and an opportunity for a determination on the record after a hearing at which the person would be entitled to be represented by counsel, to present witnesses and to cross-examine the witnesses against him. In a case in which the Secretary intended to take action to bar a person from participation, the Secretary would be required to provide notice of such action to the appropriate State medicaid agency.

In determining the amount of the penalty assessed, the Secretary would be required to take into account the nature of the claims and the circumstances under which they were presented as well as the degree of culpability, history of prior offenses, and financial condition of the person presenting the claim.

Any person against whom a penalty was assessed or who was barred from participation under this provision would be entitled to Federal judicial review of a final determination of the Secretary by requesting such a review within 60 days after he was notified of the Secretary's order. In the proceeding before the court, the finding of the Secretary with respect to questions of fact, if supported by substantial evidence on the record, would be conclusive.

In any case in which the penalties and assessments imposed by the Secretary with respect to services rendered during a 2-year period exceeded $15,000 or where the person was barred from participation for a period exceeding 5 years, the person would be entitled to a trial de novo in Federal court. No penalty or assessment would be collected, nor payment prohibited, until all rights to administrative and judicial review had been exhausted. Upon such final determination, the Secretary would be required to provide notice to the public with respect to any person barred from participation in the medicare or medicaid programs.

Amounts recovered as a result of a medicaid claim would be returned to the State in proportion to its medicaid matching share; amounts representing a medicare claim would be returned to the medicare trust funds, and the remainder would be deposited in the general fund of the U.S. Treasury.

The civil money penalty provided for in this bill is intended to provide an alternative to criminal proceedings so as to increase the effectiveness of enforcement in the medicare and medicaid programs. There are presently numerous cases identified by the Inspector General of HHS which are clear cases of fraud but which are not prosecuted by the Justice Department because they are excessively time consuming or do not warrant imprisonment. It is hoped that this mechanism will provide the Secretary with additional flexibility in pursuing cases of fraud under the programs.

While the Committee believes that civil money penalty proceedings are necessary for the effective prevention of abuses in the medicare and medicaid programs, the Committee is concerned that such proceedings not be initiated lightly. It is anticipated that the Secretary will administer the civil penalty judiciously, using it only where the severity of the violation so warrants. Further, the Committee expects that cases initiated under this provision will be subject to full investigation and substantiation and that alleged violators will receive procedural rights consistent with administrative due process.

The provision would become effective upon enactment.

b. Utilization Guidelines for Provision of Home Health Services (Section 432)

Present Law and Background

As a condition of payment for home health services, present law requires a physician to certify that the services are required because the patient is homebound and needs intermittent skilled nursing care or physical therapy, speech therapy or, as of July 1, 1981, occupational therapy, and that the physician establish and periodically review a plan of care. Medicare law excludes from coverage services that are not reasonable and necessary for the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member.

Despite these provisions, relatively little has been accomplished by way of review of home health services in the light of specific coverage criteria. The Committee is concerned that over the last several years utilization of home health benefits has increased dramatically compared to all other medicare benefits. Of particular concern is the rapid increase in the utilization of home health aide services. Although a range of services is covered under the medicare home health benefit, home health aide visits account for a large proportion of all covered visits.

Explanation of Provision

The bill requires that the Secretary of Health and Human Services establish utilization guidelines and issue instructions to medicare intermediaries for a program of post-payment coverage review of submitted claims, on a sample basis, to monitor compliance with the medical necessity and other requirements of present law for medicare coverage of home health services.

It is the Committee's intent that the Secretary initiate a program of post-payment review of home health services and issue instructions to intermediates to carry out this review. In addition, the Committee expects the Secretary of HHS, to the extent feasible, to review coverage instructions to intermediaries for clarity and to work to assure consistency of interpretation among intermediaries.

This section requires the Secretary of HHS to establish and provide for the implementation of utilization guidelines not later than October 1, 1981.

c. Repeal of Statutory Time Limitation on Agreements With Skilled Nursing Facilities (Section 433)

Present Law and Background

In order to renew an agreement with medicare, a skilled nursing facility must undergo a survey to confirm its compliance with applicable health and safety requirements. In the Committee's judgment, it is no longer necessary for every participating skilled nursing facility to be subjected to the annual survey and certification process since program experience indicates that many facilities have been consistently in compliance with the medicare conditions of participation.

Explanation of Provision

The bill repeals the provision in present law that requires skilled nursing facility provider agreements with medicare to be renewed on an annual basis. By enabling the Secretary to be flexible in scheduling surveys of participating skilled nursing facilities, as is currently the case with hospitals, the Committee believes that the ability of the State agencies (which conduct medicare surveys) to concentrate their resources on surveys of those facilities that merit closer scrutiny will be greatly enhanced.

Under the Committee's bill, it is expected that the practice of annually surveying those facilities that have a record of significant deficiencies would be continued; however, the bill would permit surveys at less frequent intervals for a facility with a record of consistent compliance with the standards. It is the Committee's intent that such intervals would be consistent with the practice generally followed by the Secretary in surveying hospitals, and that only in exceptional cases would a skilled nursing facility be surveyed less frequently than at 24-month intervals.

This section is effective on enactment.

d. Technical Corrections for Errors Made by the Medicare and Medicaid Amendments of 1980 (Section 434)

Present Law and Background

Several technical drafting errors were included in present law by the Medicare and Medicaid Amendments of 1980 (Title IX of Public Law 96-499, the Omnibus Budget Reconciliation Act of 1980). The most significant of these errors is the deletion from prior law of a provision limiting medicare part B reimbursement to the lower of the provider's customary charge or the reasonable cost of the covered service.

EXPLANATION OF PROVISION

The bill restores the provision that was erroneously deleted, and makes several other minor technical and clerical corrections.

The technical corrections generally are effective retroactively to correspond with the effective dates of the Public Law 96–499 provisions that they correct.

e. Repeal of Periodic Interim Payment Change (Section 435)

PRESENT LAW AND BACKGROUND

Under current reimbursement arrangements, hospitals may receive payments for services provided to medicare beneficiaries under two different procedures. The standard procedure is for hospitals to submit bills and receive payments on the basis of those bills. The average time lag between the date of service and the date of payment under the standard procedure is approximately six weeks, of which the medicare processing time is approximately ten to fourteen days. The alternative procedure permits hospitals to receive periodic interim payments (PIP), which are not directly tied to the receipt of bills. On the average, this procedure produces only a three-week lag between the rendition of service and receipt of payment.

Public Law 96–499 imposed a one-time delay in the flow of PIP payments to hospitals and directed the Secretary of HHS to develop and apply procedures under which, with respect to the last 21 days for which PIP payments would otherwise be made during fiscal year 1981, such payments would have been deferred until fiscal year 1982.

EXPLANATION OF PROVISION

The bill would repeal the periodic interim payment change made in Public Law 96–499, thus avoiding a temporary postponement of medicare payments to hospitals that would otherwise occur at the end of fiscal year 1981. The provision is effective upon enactment.

f. Statutory Deadlines for Implementing AFDC Home Health Aide Demonstration Projects (Section 436)

PRESENT LAW AND BACKGROUND

Public Law 96–499 required the Secretary of HHS to enter into agreements with up to 12 States, selected at his discretion, for the purpose of conducting demonstration projects for the training and employment of AFDC recipients as homemakers and home health aides. Such aides would provide authorized services to elderly or disabled individuals who otherwise might be expected to require institutional care. Ninety percent Federal matching is provided under the States' medicaid programs for the reasonable costs (less any related fees collected) of conducting the projects. The provision was effective upon enactment, but no specific implementation dates were included in the law. The Committee is concerned about delays by the Department of HHS in getting these demonstration projects underway.

EXPLANATION OF PROVISION

The bill requires the Secretary of HHS to establish, by October 1, 1981, such guidelines and regulations as are necessary to assure that agreements with States authorized by present law are entered into not later than January 1, 1982, for the training of AFDC recipients as homemakers and home health aides, and requires a report to Congress, during January 1982, on current and anticipated progress, including a description of the agreements entered into by that time and a timetable for the conclusion of any other agreements that the Secretary anticipates.

5. PART E: AMENDMENTS RELATING TO PROFESSIONAL STANDARD REVIEW ORGANIZATIONS (PSRO'S) AND UTILIZATION REVIEW

a. Reduction and Repeal of Professional Standards Review Organizations (PSRO's) (Sections 441–444 and 447–449)

PRESENT LAW AND BACKGROUND

Under present law, PSRO's are charged with the comprehensive and ongoing review of the services provided under medicare, medicaid and the maternal and child health programs. PSRO's determine, for purposes of reimbursement under these programs, whether services are: (1) medically necessary, (2) provided in accordance with professional standards, and (3) in the case of institutional services, rendered in the appropriate setting.

PSRO's are formed by organizations representing substantial numbers of practicing physicians in 194 geographic areas nationwide. There are currently 47 fully designated and 140 conditionally designated PSRO's in operation.

The major focus of the PSRO program has been on review of inpatient hospital services. While PSRO's are also charged with review responsibilities in other health care settings, budget restrictions have limited review outside the hospital setting.

EXPLANATION OF PROVISION

Under the bill, the Secretary of Health and Human Services would be required to develop and apply specific criteria for the evaluation of the performance of PSRO's. On the basis of such evaluations, the Secretary would be permitted to terminate no more than one-half of all PSRO's prior to October 1, 1982. States would have the option of contracting with PSRO's for medicaid review at a 75-percent Federal matching rate. The PSRO program would be repealed, effective with the end of fiscal year 1983.

Under Sections 441–444 of the bill, the Secretary of HHS would be required, by September 30, 1981, to establish specific criteria for evaluation of the performance of PSRO's. Those criteria would take into account the PSRO's effectiveness in monitoring the quality of care, managing its activities efficiently, reducing unnecessary utilization and such other criteria as the Secretary may determine appropriate. Based on the criteria so established, the Secretary would be required to assess the performance of PSRO's and determine their relative effectiveness.

The Secretary would then be authorized to terminate the least effective PSRO's, but in no case would the Secretary be permitted to take action which would result in the termination or nonrenewal of more than one-half of all PSRO's prior to October 1, 1982.

Since its inception in 1972, the PSRO program has been the center of considerable controversy regarding its effectiveness in meeting the goals of assuring the quality and efficiency of health care. While the Congressional Budget Office has concluded that, on the whole, the program has been only moderately effective in reducing medicare costs the Committee heard considerable testimony indicating that certain PSRO's had been very effective in controlling health care cost and improving the quality of patient care.

Under the provisions of the bill, the Secretary would be required to establish criteria for evaluating the relative effectiveness of PSRO's. It is the intent of the Committee that such criteria would be established in consultation with individuals and organizations with experience in conducting peer review. The criteria would then be applied in such a way as to terminate those PSRO's which have been the least effective in controlling costs or reviewing the quality of care.

A number of PSRO's have established effective mechanisms for the collection and utilization of data on hospitals within the PSRO area. This information has proved useful in assisting PSRO's, hospitals, and the medical community to determine patterns of utilization and patient care and to reduce unnecessary utilization and improve the quality of care. It is anticipated that such effective collection and use of data will be included among the criteria used to evaluate PSRO performance.

Under the bill, a PSRO would receive 90 days notice of termination. The present law right of a PSRO to a hearing in the case of termination of an agreement would be repealed except with respect to a PSRO with an annual agreement in existence on the date of enactment. Termination of an agreement by the Secretary under this provision would not be subject to judicial review.

Under current law, the Secretary is required to make payments to a PSRO for expenses incurred in the performance of its duties from the medicare trust funds and from general revenue appropriations in proportion to the costs attributable to each of the programs reviewed. The costs of administration and review with respect to the medicare program are paid from the hospital insurance trust fund.

It is the intent of the Committee that, with respect to those PSRO's which have not been terminated and which continue to perform the activities provided for in their agreement with the Secretary, funds will continue to be expended from the medicare trust fund, for purposes of PSRO administration and review of medicare services, at no less than the PSRO's allocation based upon the funding level set forth in the fiscal year 1981 continuing resolution.

Under the bill, recent limitations placed on the scope of review by PSRO's would be removed to provide more flexibility for the remaining PSRO's. Authority would be returned to the Secretary to permit a PSRO to review ancillary, ambulatory, or long-term care services. In addition, PSRO's would be authorized, rather than required, to delegate review activities to hospitals, skilled nursing facilities and intermediate care facilities.

In the face of the severe budget limitations on PSRO's, the Secretary was authorized to permit PSRO review of certain ancillary and other services only where the cost effectiveness of such review had already been demonstrated. The purpose of this provision was to assure that review was focused in those areas where PSRO's were proven to be the most effective. However, as the number of PSRO's is reduced, the Secretary should be empowered to give an individual PSRO the maximum flexibility in achieving savings.

With respect to medicaid review, section 443 of the bill would provide States with the option of contracting with PSRO's at a 75-percent Federal matching rate. Currently, the Secretary contracts with a PSRO to do both medicare and medicaid review with the Federal Government financing 100 percent of the cost. Under the bill, a PSRO would be required to enter into a contract with the State at the State's option for medicaid review under terms and conditions similar to those contained in an agreement between a PSRO and the Federal Government. Such review could not be inconsistent with performance of review under the basic PSRO law. The Committee anticipates that those PSRO's which have been effective in reducing hospital costs within the State will continue to be funded by the State for purposes of medicaid review.

The Secretary of HHS would be required to report to the Congress by September 30, 1982, on the terminations of PSRO's occurring to that date and on the performance of the remaining PSRO's.

Under section 447 of the bill, the PSRO program would be repealed, effective October 1, 1983.

Section 448 of the bill makes certain conforming changes, and section 449 provides certain transitional amendments. Section 449 specifically provides that certain PSRO authority and duties shall remain in effect until October 1, 1983. The section also provides for a transition period with respect to certain provisions of current law. With respect to current PSRO authority, the bill specifically provides that the conclusiveness of a PSRO's determinations, its authority to deny payments, and the limitations on liability of its members and employees shall remain in effect with respect to actions taken before October 1, 1983. As a transition provision, payment for expenses incurred prior to October 1, 1983 would be permitted to be made subsequent to that date. In addition, a beneficiary or provider's right to appeal to the Secretary the decision of a PSRO made prior to October 1, 1983, would continue, as would the Secretary's authority to take action with respect to a provider's participation in medicare based upon a PSRO's recommendation made prior to October 1, 1983. Further, the Secretary would be required to maintain the confidentiality of certain PSRO records as required by present law and would be required to provide for the appropriate disposition of such information in accordance with such requirements of confidentiality.

Section 444 of the bill makes an additional conforming change made necessary by the reduction and ultimate repeal of PSROs. Under current law, as provided for in Public Law 96–499, the Omnibus Budget Reconciliation Act of 1980, where a beneficiary no longer requires acute hospital services but must remain in the hospital because no long-term care bed is available in the community, medicare reimbursement is reduced to the long-term care rate, with certain exceptions. Under this provision, the determination as to whether the patient requires acute or long-term care is made by a PSRO. In the absence of PSRO review, the provision would become inoperative.

Under the Committee bill, the Secretary of HHS or such agent as the Secretary may designate, would be authorized in the absence of a PSRO, to carry out such review.

The section would become effective upon enactment.

b. Repeal of Utilization Review Requirements (Section 445)

Present Law and Background

Under present medicare law, in the absence of a Professional Standards Review Organization (PSRO), hospitals and skilled nursing facilities are required to review, on a sample or other basis, admissions, duration of stay, and use of health facilities and services. This utilization review may be conducted within the institution or by a group organized by the local medical society. Rural health clinics are required to conduct utilization review to the extent the Secretary of HHS determines is necessary and feasible.

Explanation of Provision

The bill would repeal the statutory requirement for utilization review under medicare with respect to hospitals, skilled nursing facilities and rural health clinics. It is anticipated that hospitals will continue to conduct utilization review based upon the present requirements of the Joint Commission on the Accreditation of Hospitals (JCAH). Medicare would continue to reimburse for the costs of utilization review where conducted voluntarily by a provider or pursuant to the JCAH requirement.

The section is effective upon enactment.

6. PART F: MEDICARE AS SECONDARY PAYOR TO THE FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB) PROGRAM (SECTION 451)

Present Law and Background

Under present law Federal employees are eligible for health insurance protection under the Federal Employees Health Benefits Act (FEHBA). Retired civil service annuitants may receive health insurance coverage by continuing to pay the same monthly premium paid by Federal employees.

The Federal Government pays approximately 60 percent of the total costs of FEHBA premiums. The share which the government actually pays toward the premium of an individual employee or annuitant varies with the plan but may never exceed 75 percent of the premium cost. There are approximately 120 FEHBA plans including government-wide service and indemnity plans, employee organization plans and health maintenance organizations. Approximately 60 percent of Federal employees belong to the two major government-wide plans.

Individuals age 65 or older who are entitled to social security cash benefits are entitled to hospital insurance coverage under part A of medicare. Thus, those Federal employees and retirees over 65 who have earned sufficient quarters of coverage in social security covered employment may be entitled to both medicare and FEHBA coverage. Approximately 75 to 80 percent of Federal annuitants are dually entitled to social security and civil service retirement.

All individuals 65 and over may elect to enroll in part B of medicare by paying a monthly premium ($9.60 as of July 1, 1980). Part B provides coverage of physician and other services, subject to an annual deductible and to coinsurance.

Under current law, for those Federal employees and annuitants who are entitled to coverage under both medicare and FEHBA, medicare is the primary payor. As secondary payor, the FEHBA plan will generally pay those allowable expenses remaining after medicare has paid, but not in excess of the dollar amount which the FEHBA plan would otherwise have reimbursed. In general, this means that the FEHBA plan fills in the medicare deductible and coinsurance amounts, and the medicare program bears the major burden of the costs with respect to those persons who are dually entitled.

Explanation of Provision

The bill provides that, for those Federal employees and annuitants who are entitled to coverage under both medicare part B and FEHBA, medicare would become the secondary payor. Medicare part A would become the secondary payor to the FEHBA program only with respect to those persons reaching age 65 after December 31, 1981.

The bill would prohibit payment under medicare part B to the extent that payment had been made, or could reasonably be expected to be made under a FEHBA plan. As secondary payor, medicare part B would pay physician and other expenses remaining after the FEHBA plan had paid, but not more than the maximum dollar amount that medicare would otherwise have paid. In no case could the total of the medicare and FEHBA payments exceed the amount which the FEHBA plan recognizes as reasonable with respect to the services provided.

With respect to medicare part A, for those individuals turning 65 after December 31, 1981, the FEHBA plan would be the primary payor. Medicare, as secondary payor, would reimburse for hospital and other part A services based on reasonable cost up to the dollar amount which medicare would otherwise have paid. The Secretary would be required to coordinate benefits in such a manner as to assure that the total amount paid for part A services by medicare and the FEHBA plan would not exceed the amount recognized by medicare as the reasonable cost of such services.

Hospitals and certain other providers are reimbursed under part A based upon their reasonable costs. The amount payable to the provider as reasonable is reduced by the amount of the part A inpatient deductible and coinsurance. The provider is then permitted to bill the medicare beneficiary for the deductible and coinsurance amounts. Under the bill, the Secretary of Health and Human Services would be authorized to establish a method for coordinating the payment of benefits under the two programs and would be required to limit the provider's charges to the beneficiary of deductible and coinsurance amounts such that, when added to the amounts payable under medicare and the FEHBA plan, they would not exceed the amount recognized as reasonable under medicare. With respect to other charges which may be imposed upon beneficiaries under present law, such as those permitted under section 1866(a)(2) (B) and (C), the Secretary may establish by regulation such limits as he or she may deem appropriate in order to assure that any charges which could otherwise be imposed on the beneficiary will be reduced by amounts paid under FEHBA.

In general, Federal civil service retirees who qualify for social security and thus medicare part A benefits, do so on the basis of a much shorter period of social security covered employment than do other retirees. For those individuals who are dually entitled to medicare part A and FEHBA, or for those persons who enroll in medicare part B and the FEHBA plan, the medicare program bears the largest portion of covered health care costs.

The intent of the provision is to eliminate the subsidy presently being indirectly provided by medicare to the FEHBA program and to distribute more equitably between the programs the costs of medical care for Federal employees and retirees 65 and over.

The provision would become effective with respect to part B for services furnished on or after January 1, 1982, or the first pay period beginning after January 1, 1982, whichever is later. With respect to part A, the above effective date would apply only to services furnished to individuals who are 65 years of age or older after December 31, 1981.

III. BUDGET EFFECTS OF THE BILL

A. Committee Statement

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the budget effects of the provisions of H.R. 3850, as reported by the Committee.

With respect to the spending reductions contained in the bill the Committee states that it agrees with the estimates of the Congressional Budget Office (CBO) attached below with one exception. The estimates for counting the income of stepparents in the AFDC program should be $22 million higher for each of the fiscal years 1982–86. The Committee feels that this is a more accurate estimate of the impact of the Committee provision for the following reasons:

A. When this was initially estimated by the Administration and CBO, AFDC benefit reductions totaled $162 million, AFDC administrative cost savings were $109 million, and food stamp cost increased by $160 million for a total net federal savings of $131 million. Tabulations from the March, 1979 AFDC characteristics survey shows that over 95 percent of the families affected by the provision currently are not receiving food stamp benefits, therefore it seems unreasonable to assume that there would be $60 million of increased food stamp costs. In addition, income eligibility levels were lowered in the food stamp program as a result of the reconciliation instruction process and thus this much additional cost seems even more unlikely.

B. In addition, embodied in the Congressional Budget Office cost estimate is an assumption regarding marital behavior that is based on quite limited statistical data and does not appear from the limited information available to be appropriate.

In addition, the Committee approved changes in the trade adjustment assistance program were preliminarily estimated by the Congressional Budget Office to result in a savings of $1,335 million in fiscal year 1982. This estimate was consistent with the estimates and assumptions on which the reconciliation instruction to the Ways and Means Committee was based. As a result, the Committee has calculated the trade adjustment changes to have a net effect of reducing outlays of $1,335 million.

With respect to the reduction in budget authority mandated in the Conference Report on H. Con. Res. 115, the Committee makes the following statement:

(1) The budget resolution does not recognize the unique characteristics of the entitlement programs within the jurisdiction of the Committee on Ways and Means. For example, when outlays reductions are made to entitlement programs financed from trust funds, the trust

funds accumulate additional interest and this accrued interest results in increases in budget authority.

(2) The budget resolution also assumes a certain distribution of reductions between trust fund entitlement programs and entitlement programs financed from general revenues. Budget authority in the context of trust funds is basically revenue to those trust funds. Thus spending reductions to trust fund entitlement programs are scored as both increases in budget authority (because of accrued interest) and the appropriate level in outlays reductions. Since the Committee has reduced spending in the trust fund entitlement programs by more than the budget resolution assumed, outlay reductions are met while the budget authority target is not.

B. Congressional Budget Office Estimates

In compliance with subsidivision (C) of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, the Committee states that the Congressional Budget Office has examined H.R. 3850, as reported by the Committee, and H.R. 2540, as previously reported by the Committee and has submitted the following statements.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 11, 1981.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 202 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimates of the bill for reducing spending in programs within the jurisdiction of the Committee on Ways and Means.

The savings estimates have been calculated from the CBO baseline used by the Budget Committees in developing the reconciliation instructions.

The estimates included in the attached report represent the 1981–1986 effects on the Federal budget of the Committee's legislative proposals. CBO understands that the staff of the Committee on the Budget will be responsible for interpreting how the savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimates.

Sincerely.

ALICE M. RIVLIN,
Director.

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BUDGET AUTHORITY AND OUTLAY ESTIMATES OF HOUSE WAYS AND MEANS RECONCILIATION PROVISIONS

[In millions of dollars]

	Fiscal year—					
	1981	1982	1983	1984	1985	1986
TRADE						
Trade adjustment benefits: [1]						
Budget authority		−1,295	−800	−450	−450	−450
Outlay		−1,295	−800	−450	−450	−450
Reduction in authorizations for customs service, and trade adjustment assistance for firms and communities:						
Budget authority		−38	−37	−40	−44	−48
Outlay		−35	−37	−40	−44	−48
Total, trade:						
Budget authority		−1,333	−837	−490	−494	−498
Outlay		−1,330	−837	−490	−494	−498
SOCIAL SECURITY						
Phaseout postsecondary student benefits.						
Budget authority		13	56	143	275	443
Outlay		−347	−796	−1,439	−1,840	−2,153
Termination of mother's and father's benefits when child attains age 16.						
Budget authority		1	6	28	68	113
Outlay		−30	−88	−496	−528	−560
Elimination of minimum benefit:						
Budget authority		22	60	87	124	141
Outlay		−45	−85	−95	−125	−169
Rounding of benefits:						
Budget authority		3	17	40	69	102
Outlay		−80	−280	−323	−367	−411
Pension Reform Act:						
Budget authority		0	0	0	1	2
Outlay		−1	−2	−5	−8	−10
Discontinue trust fund financing of vocational rehabilitation services:						
Budget authority		3	10	16	23	29
Outlay		−87	−86	−73	−73	−53
Reduce retirement exempt age to 71 in 1982:						
Budget authority		8	18	23	24	26
Outlay		−210	−70	0	0	0
Pay one-half of 1982 benefit increase in July and the remainder plus 2 additional months of CPI increases in October:						
Budget authority		46	151	219	307	372
Outlay		−1,800	−721	−942	−754	−726
Limit lump-sum death benefit.						
Budget authority		9	25	42	61	83
Outlay		−200	−210	−215	−220	−230
Restore retirement exempt age additionally from 71 to 72 in 1982:						
Budget authority		6	15	17	18	19
Outlay		−170	−50	0	0	0
Pay benefits with 1st of month:						
Budget authority		14	23	42	64	88
Outlay		−190	−220	−240	−260	−280
Total, social security:						
Budget authority		125	381	657	1,034	1,418
Outlay		−3,160	−2,608	−3,828	−4,175	−4,592
UNEMPLOYMENT COMPENSATION						
Repeal national trigger:						
Budget authority		−300	0	0	0	0
Outlay		−657	0	0	0	0
Exclude extended benefit claimants from State trigger calculations:						
Budget authority		−400	−600	−100	0	0
Outlay		−561	−380	−120	−10	0
Reduce unemployment compensation for ex-military personnel:						
Budget authority		−160	−160	−160	−160	−160
Outlay		−160	−160	−160	−160	−160
Total, unemployment compensation:						
Budget authority		−860	−760	−260	−160	−160
Outlay		−1,378	−540	−280	−170	−160

See footnotes at end of table.

BUDGET AUTHORITY AND OUTLAY ESTIMATES OF HOUSE WAYS AND MEANS RECONCILIATION PROVISIONS—Continued

[In millions of dollars]

	Fiscal year—					
	1981	1982	1983	1984	1985	1986
AID TO FAMILIES WITH DEPENDENT CHILDREN						
Limit earnings disregards						
Budget authority		−150	−154	−159	−162	−164
Outlay		−150	−154	−159	−162	−164
Count income of stepparents:						
Budget authority		−108	−111	−113	−116	−118
Outlay		−108	−111	−113	−116	−118
Require retrospective accounting and monthly reporting:						
Budget authority		0	−187	−195	−201	−207
Outlay		0	−187	−195	−201	−207
Allow States to require certain recipients to participate in job search.						
Budget authority		0	−12	−25	−32	−33
Outlay		0	−12	−25	−32	−33
Define unemployed parent as the principal earner for family:						
Budget authority		0	0	0	0	0
Outlay		0	0	0	0	0
Require States to recover AFDC overpayments and pay underpayments:						
Budget authority		−115	−110	−106	−102	−98
Outlay		−115	−110	−106	−102	−98
Optional payments for dependent children over 18:						
Budget authority		−25	−35	−45	−50	−55
Outlay		−25	−35	−45	−50	−55
Deem sponsor's income to aliens in AFDC families						
Budget authority		−15	−15	−15	−15	−15
Outlay		−15	−15	−15	−15	−15
Limit allowable resources to $1,500:						
Budget authority		−10	−10	−10	−10	−10
Outlay		−10	−10	−10	−10	−10
Administrative savings:						
Budget authority		−40	−45	−50	−55	−60
Outlay		−40	−45	−50	−55	−60
Medicaid savings:						
Budget authority		−40	−55	−60	−65	−70
Outlay		−40	−55	−60	−65	−70
Total, AFDC:						
Budget authority		−503	−734	−778	−808	−830
Outlay		−503	−734	−778	−808	−830
CHILD SUPPORT ENFORCEMENT						
Collection of support for adults.						
Budget authority		−23	−23	−23	−23	−23
Outlay		−23	−23	−23	−23	−23
Modify collection for non-AFDC families						
Budget authority		−45	−49	−55	−59	−65
Outlay		−45	−49	−55	−59	−65
Source of incentive payments to cooperating jurisdiction:						
Budget authority		−61	−69	−78	−87	−98
Outlay		−61	−69	−78	−87	−98
Prohibit discharge of child support in bankruptcy:						
Budget authority		−17	−21	−26	−33	−41
Outlay		−17	−21	−26	−33	−41
Child support intercept of unemployment benefits						
Budget authority		−20	−20	−20	−20	−20
Outlay		−20	−20	−20	−20	−20
Total, child support enforcement:						
Budget authority		−166	−182	−202	−220	−247
Outlay		−166	−182	−202	−220	−247

See footnotes at end of table

BUDGET AUTHORITY AND OUTLAY ESTIMATES OF HOUSE WAYS AND MEANS RECONCILIATION PROVISIONS—Continued

[In millions of dollars]

	Fiscal year—					
	1981	1982	1983	1984	1985	1986
SUPPLEMENTAL SECURITY INCOME						
Change from a quarterly prospective to a retrospective accounting period:						
Budget authority		−30	−60	−60	−60	−60
Outlay		−30	−60	−60	−60	−60
Eligibility of SSI recipients for food stamps:						
Budget authority		−50	−50	−50	−50	−50
Outlay		−50	−50	−50	−50	−50
Negotiability of SSI checks:						
Budget authority		−7	0	0	0	0
Outlay		−7	0	0	0	0
Pay ½ of 1982 benefit increase in July and the remainder plus 2 additional months of CPI increases in October:						
Budget authority		−80	−28	−36	−29	−28
Outlay		−80	−28	−36	−29	−28
Total, SSI:						
Budget authority		−167	−138	−146	−139	−138
Outlay		−167	−138	−146	−139	−138
LOW-INCOME ENERGY ASSISTANCE						
Low-income energy assistance:						
Authority level [2]		−847	−947	−1,067	−1,209	−1,413
Outlay		−847	−947	−1,067	−1,209	−1,413
SOCIAL SERVICES						
Limit Federal title XX training funds to $75,000,000 for fiscal 1982:						
Budget authority		−7	0	0	0	0
Outlay		−7	0	0	0	0
HEALTH						
Repeal periodic interim payment change:						
Medicare:						
Budget authority	2	(3)	0	0	0	0
Outlay	685	−692	0	0	0	0
Civil money penalty:						
Medicare:						
Budget authority		−7	−7	−7	−7	−7
Outlay		−7	−7	−7	−7	−7
Medicaid:						
Budget authority		−14	−14	−14	−14	−14
Outlay		−14	−14	−14	−14	−14
Less frequent SNF surveys:						
Medicare:						
Budget authority		(3)	(3)	1	1	1
Outlay		−4	−4	−4	−4	−4
Eliminate utilization review:						
Medicare:						
Budget authority		0	0	0	0	0
Outlay		0	0	0	0	0
Medicaid:						
Budget authority		0	0	0	0	0
Outlay		0	0	0	0	0
Reduction in number of PSRO's:						
Medicare:						
Budget authority		−11	−22	−5	−4	−9
Outlay		−17	−33	−7	53	61
Medicaid:						
Budget authority		−4	−8	−2	−19	−33
Outlay		−4	−8	−2	−19	−33
Renal dialysis reimbursement rate:						
Medicare:						
Budget authority		−105	−130	−155	−180	−205
Outlay		−105	−130	−155	−180	−205

See footnotes at end of table

BUDGET AUTHORITY AND OUTLAY ESTIMATES OF HOUSE WAYS AND MEANS RECONCILIATION PROVISIONS—Continued

[In millions of dollars]

	Fiscal year—					
	1981	1982	1983	1984	1985	1986
Part B deductible carryover:						
Medicare:						
Budget authority		−55	−55	−55	−55	−55
Outlay		−55	−55	−55	−55	−55
Medicaid:						
Budget authority		4	4	4	4	4
Outlay		4	4	4	4	4
Base part A coinsurance on current year deductible.						
Medicare:						
Budget authority		(3)	1	2	2	3
Outlay		−5	−10	−10	−10	−10
Medicaid:						
Budget authority		0	1	1	1	1
Outlay		0	1	1	1	1
Medicare as second payor to FEHB program.						
Medicare.						
Budget authority		−110	−205	−195	−170	−145
Outlay		−131	−300	−360	−400	−430
Other agency costs						
Authorization level		60	140	170	190	200
Outlay		60	140	170	190	200
Off-budget costs:						
Budget authority		15	40	45	50	55
Outlay		15	40	45	50	55
Repeal freestanding detoxification facilities:						
Medicare:						
Budget authority		0	0	0	0	0
Outlays		0	0	0	0	0
Limits on reimbursement to home health agencies to the 75th percentile:						
Medicare:						
Budget authority		(3)	2	4	6	9
Outlay		−12	−23	−27	−30	−33
Make the part A inpatient deductible and coinsurance more current:						
Medicare:						
Budget authority		7	25	55	85	120
Outlay		−185	−305	−360	−410	−490
Medicaid:						
Budget authority		15	25	30	35	40
Outlay		15	25	30	35	40
Increase part B deductible to $70 and index in future years:						
Medicare:						
Budget authority		−90	−215	−330	−425	−520
Outlay		−90	−215	−330	−425	−520
Medicaid:						
Budget authority		7	15	25	35	40
Outlay		7	15	25	35	40
Require utilization guidelines for home health services.						
Medicare:						
Budget authority		0	0	0	0	0
Outlay		0	0	0	0	0
Lower sec. 223 limits on routine hospital costs to 108 percent of the mean:						
Medicare:						
Budget authority		3	10	20	30	40
Outlay		−75	−105	−125	−140	−170
Medicaid:						
Budget authority		−13	−18	−20	−25	−30
Outlay		−13	−18	−20	−25	−30
Eliminate occupancy test for hospital long-term care except for public hospitals:						
Medicare:						
Budget authority		2	8	15	20	30
Outlay		−61	−70	−80	−90	−105
Medicaid:						
Budget authority		−17	−20	−23	−26	−30
Outlay		−17	−20	−23	−26	−30

See footnotes at end of table

BUDGET AUTHORITY AND OUTLAY ESTIMATES OF HOUSE WAYS AND MEANS RECONCILIATION PROVISIONS—Continued

[In millions of dollars]

	Fiscal year—					
	1981	1982	1983	1984	1985	1986
Nutritional therapy as alternative mode of treatment under the ESRD program:						
Medicare:						
Budget authority		−20	−25	−30	−30	−35
Outlay		−20	−25	−30	−30	−35
Demonstration projects for the training of AFDC recipients as home health aides:						
Medicaid:						
Budget authority		0	0	0	0	0
Outlay		0	0	0	0	0
Require medicare inpatients to copay $1 per day from the 1st day of admission to acute care.						
Medicare:						
Budget authority		5	15	25	35	45
Outlay		−115	−117	−119	−122	−125
Medicaid:						
Budget authority		9	9	9	10	10
Outlay		9	9	9	10	10
Offset interest income on funded depreciation:						
Medicare:						
Budget authority		4	15	25	35	50
Outlay		−100	−120	−140	−160	−190
Medicaid:						
Budget authority		−15	−20	−25	−25	−30
Outlay		−15	−20	−25	−25	−30
Subtotal, health:						
Budget authority/authorization level	−2	−345	−469	−475	−491	−520
Outlay	685	−1,642	−1,405	−1,645	−1,844	−2,160
Off-budget:						
Budget authority		15	40	45	50	55
Outlay		15	40	45	50	55
Total:						
On-budget:						
Budget authority/authorization level	−2	−4,103	−3,686	−2,761	−2,487	−2,388
Outlay	685	−9,200	−7,391	−8,436	−9,059	−10,038
Off-budget:						
Budget authority		15	40	45	50	55
Outlay		15	40	45	50	55

[1] CBO provided preliminary savings estimates to the budget committees at the time reconciliation instructions were issued of $1,335, $840, and $600 for 1982 through 1984.
[2] Assumes authorization levels of $1,800 million, $2,000 million, and $2,200 million in 1984 through 1986.
[3] Negligible.

IV. OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with subdivision (B) of clause 2(l)(2) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee on the motion to report H.R. 3850, as amended.

H.R. 3850, as amended, was ordered favorably reported by a voice vote.

B. Oversight Findings

In compliance with subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the following statement is made with respect to the Committee's oversight findings.

TRADE

The Committee has conducted extensive oversight of the operation and effectiveness of the trade adjustment assistance programs through several sets of hearings held by its Subcommittee on Trade since 1976 and through consideration of legislative amendments to these programs. In conjunction with this oversight, the General Accounting Office has provided the Congress a series of reports as required by section 280 of the Trade Act of 1974 evaluating the current programs and recommending modifications in them. In its most recent hearings on March 30 and 31, 1981, the Subcommittee on Trade received testimony from Administration officials and representatives of major labor unions and business on proposals by the Administration to reduce Government spending through fundamental changes in the adjustment assistance program for workers.

From this oversight activity it has become clear that the worker adjustment assistance program has not functioned as Congress intended. The program has become primarily one of income compensation rather than positive adjustment of import-impacted workers to new employment, as evidenced by the budgetary increase for trade readjustment allowances from $70 million to $2.7 billion since 1976 while funding for training, job search, and relocation have never exceeded $15.5 million annually. Delays in benefit delivery, inequities in worker coverage and benefit levels, and administrative problems have also reduced program effectiveness.

In the context of the spending reductions called for by the Administration in social programs overall, the Committee believes that fundamental changes in worker adjustment assistance program are warranted which place primary focus on adjustment of long-term and permanently unemployed workers and address other program deficiencies. The Committee believes that continuation of trade adjustment assistance to relieve economic dislocation that can result for some workers and firms from a Federal policy of trade liberalization is essential as an alternative to import restrictions. Consequently, the Committee has reauthorized the program for workers and firms for an additional year until the end of fiscal year 1983 and intends to maintain close and continual oversight of their operation and effectiveness.

Social Security

The Social Security Act provides for payment of benefits to children age 18 to 22 of entitled retired, disabled and deceased workers if the child is attending secondary school full time and are not married. Social Security student benefit payments are increased from $325 million in 1966, the first full year of the program, to $1.6 million in 1978, and are estimated to reach $2.5 billion in 1982. The Oversight Subcommittee held hearings on Social Security student benefits in early 1979, during which the Government Accounting Office (GAO) expressed reservations about the program on several grounds: (1) The program is redundant in many cases, since financial assistance for students through the student loan and basic education grant programs, and other sources, has increased significantly since 1966; (2) The program does not target funds efficiently on those who need educational assistance most, since students from lower income (and thus low benefit) families generally receive the least benefits, and students from larger families receive proportionately less than students from small families regardless of their need for assistance; (3) The student benefit program has an extremely high rate of overpayment—86% of the students in GAO's sample who attended part-time or had dropped out (and thus were ineligible for benefits) did not notify the Social Security Administration as required, and at least 31% of the students who were no longer attending school full time incorrectly reported that they were full-time students. Consistent with these oversight findings, the Committee has recommended to phase out the student benefit for 18 to 22 year-olds who attend post-secondary school over the next six years.

Public Assistance

PART A—UNEMPLOYMENT COMPENSATION

(1) *Extended benefits.*—Extended unemployment benefits (EB) are payable to individuals who exhaust their State benefits during periods of high unemployment. EB is paid in all States, regardless of State unemployment rates, when the national insured unemployment rate (IUR) reaches specified levels, referred to as the "national trigger". Consistent with the Committee's oversight findings that EB should be targeted to States with the highest unemployment, repealing the national trigger will eliminate EB in States with otherwise low unemployment rates during periods of high national unemployment. Benefits will be paid only in States with insured rates above the specified levels, so that assistance is targeted to States where economic conditions make it unusually difficult for unemployed workers to find jobs.

Eliminating extended benefits claimants from the calculation of State insured unemployment rates furthers this policy.

(2) *Limitation on unemployment benefits paid to ex-service members.*—In recent years, the number of persons leaving the military before their term of enlistment has expired has been on the increase. Questions have been raised about the number of individuals who serve shortened terms of service on the presumption that unemployment compensation will be available to them. The committee provisions will limit eligibility for unemployment compensation only to those persons who have completed a more lengthy period of service and takes into account a variety of payments for traveling expenses and unused leave paid at the end of enlistment.

PART B. SUBPART 1—AID TO FAMILIES WITH DEPENDENT CHILDREN

The Aid to Families with Dependent Children program is intended to provide grants to the States for needy children and their caretakers. Consistent with the Committees' oversight findings that need for assistance should be accurately determined, that recipients should be assisted in finding employment and that program requirements can be made more uniform, the Committee has made changes in the AFDC program which will:

(1) *Income and resources.*—Modify AFDC earned income and work expense disregards; limit the value of resources permitted for eligibility; and require States to consider available to a child income of a stepparent (living in the same home as the child) which exceeds specified levels;

(2) *Eligibility and benefits.*—Limit the eligibility of two parent families where one parent is unemployed to families in which the principal earner is unemployed; restrict AFDC payments to citizens of the United States and lawfully admitted aliens, and deem the income and resources of the sponsor to an alien in an AFDC family available for three years after his or her entry into the United States; and allow States to require AFDC recipients to participate in work experience assignments in which they would perform work in return for AFDC benefits; and

(3) *Administrative improvements and Federal financial participation.*—Require States to determine monthly benefits on the basis of the recipient's actual income in the previous month; require States to promptly take all necessary steps to correct any overpayments or underpayments; and limit the Federal share of AFDC costs to 57 percent.

PART B. SUBPART 2—CHILD SUPPORT ENFORCEMENT

The Child Support Enforcement Program provides services to both AFDC and non-AFDC families to locate absent parents, establish paternity, and to assist in the establishment and collection of both court-ordered and voluntary child support payments. The program was enacted in 1975 in an effort to require absent parents to support their children and thereby reduce AFDC expenditures.

Consistent with the Committee's oversight finding that child support collection procedures can be improved and Federal administrative costs reduced, the Committee has made legislative changes in the program to permit child support agencies to enforce existing alimony obligations in AFDC cases, to prohibit the discharge in bankruptcy of child support obligations, to facilitate the satisfaction of child support obligations from unemployment benefits, to allow Internal Revenue Service collection of child support-alimony obligations established by administrative order, to require States to collect fees to defray the cost of collection services to non-AFDC families, and to modify the distribution of incentive payments to States or political subdivisions that collect child support payments on behalf of another jurisdiction.

PART C—SUPPLEMENTAL SECURITY INCOME

The Supplemental Security Income (SSI) program was enacted in 1972 to provide monthly cash assistance to needy, aged, blind, and disabled persons. The amount of payment is based on prospective income for calendar quarters.

As a result of its oversight activities, the Committee approved changes to improve the administration of the program by providing that benefit payments be determined monthly on the basis of income and resources in the preceding month (or at the discretion of the Secretary, the second preceding month); that limit the negotiability of SSI checks to 180 days from the date of issuance (and that the amount from such unnegotiated checks which represent State supplementation payments be returned to the States); and that allow any State which previously increased its supplementary SSI payment to include the bonus value of food stamps, and continues to passs through required Federal cost-of-living increases, to remain in food stamp cash-out status.

PART D—ENERGY ASSISTANCE TO LOW-INCOME HOUSEHOLDS

Low-income families spend an increasing percentage of their incomes on rising household energy costs. The Home Energy Assistance Act of 1980 (title III of Public Law 96–223, the Crude Oil Windfall Profit Tax Act of 1980), authorized for fiscal year 1981 grants to the States for assistance to eligible low-income households to offset rising home energy costs. The authorization for the Home Energy Assistance Act expires September 30, 1981. The Committee believes a comprehensive program targeted to help low-income families offset rising energy costs is needed. Accordingly, the Committee reauthorizes the low-income energy assistance (LIEA) program and finds that each State should receive the same proportion of Federal LIEA funds appropriated in fiscal 82 and 83 that it received of the LIEA funds allotted by formula for fiscal 1981.

Under current law, Federal assistance is provided through grants to States which may be used to aid low-income households through payments to eligible households, their energy suppliers or operators of public housing units. The Committee believes this approach is appropriate and that Federal requirements should not unnecessarily impede States from designing programs which meet their particular needs.

As a result of its oversight activities, the Committee finds that Federal LIEA funds should be limited to families currently receiving federally funded public assistance and other families with incomes below 150 percent of the poverty level or 60 percent of State median income. States should be allowed to purchase and install weatherization materials designed to improve the heating or cooling efficiency of homes of eligible households. In addition, States should be allowed to carryover up to 25 of the funds received in one fiscal year into the next. Funds not used by the States in a fiscal year, and not reserved for use in the forthcoming year, should be reallocated.

PART E—SOCIAL SERVICES

Under current law, 75 percent Federal matching funds are available to States for training costs relating to title XX Social Services activities. Consistent with the Committee's oversight findings, the Committee's bill would continue through fiscal year 1982 the $75 million limitation on Federal Title XX training funds that was in effect in fiscal 1981. The Committee believes States should receive the same share of the $75 million in fiscal 1982 as they received in fiscal 1981.

MEDICARE

Oversight hearings and studies conducted in prior years by the Committee's Subcommittees on Health and Oversight have examined various aspects of medicare program operation relating, for example, to PSRO's and to problems of medicare fraud and abuse. In addition, the Subcommittee on Health has inquired into the effectiveness of the medicare program during legislative hearings held on medicare issues on March 30, 31 and on April 1, 1981. The Subcommittees on Oversight and Health have examined the operation of the PSRO program during oversight hearings held on March 24 and 25, 1981. These activities have provided insights into problems in the program and have helped to shape several provisions of the bill, including those affecting PSRO's and establishing authority for civil money penalties.

C. New Budget Authority and Tax Expenditures

In compliance with subdivision (B) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the Committee makes the following statements with respect to new budget authority and tax expenditures.

NEW BUDGET AUTHORITY

The Committee advises that H.R. 3850 consists of provisions which do not provide new budget authority. In its spending program recommendations, which have been incorporated into H.R. 3850, the Committee recommended reductions in budget authority totalling $4,143 million.

TAX EXPENDITURES

The Committee advises that H.R. 3850 includes no new tax expenditures.

D. Oversight by Committee on Government Operations

In compliance with subdivision (D) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Operations, regarding the provisions contained in this bill.

E. Inflation Impact

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3850, as reported, will reduce Federal spending in fiscal year 1982 by approximately $9.3 billion and by another $35.1 billion from fiscal years 1983 to 1986. The Committee believes that this reduction in the fiscal year 1982 budget deficit as well as the additional reductions in fiscal years 1983 to 1986 will contribute to a reduction in the inflationary pressures in the national economy.

V. ADDITIONAL VIEWS OF HON. BARBER B. CONABLE, JR., HON. BILL ARCHER, HON. GUY VANDER JAGT, HON. BILL FRENZEL, AND HON. JOHN H. ROUSSELOT

Although the Committee has taken commendable steps in this bill to reduce spending and to restructure certain programs so that they are more responsive as well as more cost effective, several objectionable provisions still remain. These provisions, in my view, undermine the budget targets we have achieved and create public expectations that a budget-conscious Congress may not be able to meet.

Our principal objection is the creation of an entitlement for job-related training as part of the changes made in the trade adjustment assistance (TAA) program. As suggested by the Administration, the Committee has agreed to reduce the level of TAA benefits to that of unemployment insurance (UI) benefits and to require an unemployed worker to exhaust all UI, additional and extended benefit payments before becoming eligible for TAA. The intention was to make unemployment benefits more equitable among those unemployed for trade related reasons and those whose unemployment results from other causes. It also was intended that the TAA program be refocused on training and readjustment as opposed to income maintenance.

To this end, we approved $112 million for relocation assistance, job search, training and program activities—about $105 million more than was spent in fiscal year 1981. Section 245 of the bill requires that at least $112 million be spent for these activities. However, section 235 makes job-related training under TAA an entitlement program and therefore takes us once again down the path of uncontrollable program costs and mid-year requests for supplemental appropriations.

We are all familiar with entitlement programs and how they can lock you in to over-increasing costs. In this case, the provision provides a basis for forcing the development of training programs, either through government or private institutions, that may not be appropriate, beneficial or cost effective. Also, an individual in training must be provided an additional twenty-six weeks of benefits beyond the time regular TAA benefits are exhausted which further adds to the overall cost of the program. This also provides an incentive to seek training even though a beneficiary may have little interest in or need for new skills as a means of securing employment.

Another important factor in considering whether entitlement programs are appropriate is the seriousness of the commitment to budget goals. Under the provisions of this bill, should the $112 million in training funds be exhausted, the Secretary of Labor would be required to petition Congress for a supplemental appropriation. If the Congress is as strongly committed to its budget guidelines as I think it is, we will be less likely to approve such mid-year supplementals.

Therefore, you've created a level of expectation for the unemployed worker that may be impossible to satisfy. The Secretary should have the flexibility to identify training needs and to establish the most effective training programs, that will benefit the most persons, within the budget amounts set by Congress.

It should also be noted that under this bill the TAA program is extended through fiscal year 1983, a year longer than originally intended when the current program was put in place. At that time, the Congress would be required to review the effectiveness of the changes we have made here, as well as the real effects of import competition and foreign investment on employment, in order to determine whether a special program focused on long-term or permanent trade related unemployment is necessary.

The Administration has expressed strong opposition to the creation of an entitlement for training under TAA. We are hopeful that in conference this provision can be eliminated.

BARBER B. CONABLE, Jr.
BILL ARCHER.
GUY VANDER JAGT.
BILL FRENZEL.
JOHN H. ROUSSELOT.

VI. ADDITIONAL VIEWS OF HON. BARBER B. CONABLE, JR., HON. BILL FRENZEL, HON. JOHN H. ROUSSELOT, HON. W. HENSON MOORE, HON. L. A. "SKIP" BAFALIS, AND HON. BILL GRADISON

We are very concerned about the extent to which some of the States have been taking advantage of the provision in current law which permits them to borrow on an interest-free basis when their unemployment funds cannot meet the costs of benefits under their State unemployment compensation programs.

Several States now owe over a billion dollars to the Federal government. Altogether, 17 States currently owe the Federal government about $6 billion. Borrowing in fiscal year 1982 is projected to exceed $3 billion, and in fiscal year 1983 to exceed $2 billion. Debt service on these funds is costing the Federal government several hundred million dollars annually. This freedom to secure virtually unlimited interest-free loans has dulled the incentive in some States to get their unemployment systems into a long-term solvent condition where the costs of unemployment benefits do not exceed the revenues generated by State unemployment taxes. It is, in fact, an incentive for States to borrow, because the cost of borrowing falls on the citizens in other States.

The Senate Finance Committee included a very attractive provision in their reconciliation bill intended to address this situation. The first part of their proposal would levy interest on the advances from the Federal government so that the States could share in the cost of making the loans and also to make the loan mechanism a little less attractive an alternative to States disinclined to balance their unemployment taxes and benefits.

The second part of the Senate proposal affects the provision under present law that if after 2 years a State has not repaid the full amount of the loan, the Federal unemployment tax on employers in the State is automatically increased by at least 0.3 percent per year up to a maximum of 3.4 percent until sufficient revenue has been raised to repay the State's entire outstanding loan balance. As a further incentive to achieve solvency, the Senate provision would "freeze" this increase in Federal unemployment taxes at 0.6 percent (or the State's current level if higher) whenever a state meets two conditions: (1) the State may engage in no new net borrowing, and (2) the State may take no action which would result in a net decrease in the solvency of the State unemployment system.

Rep. Henson Moore offered a slightly modified version of the Senate provisions when the Public Assistance and Unemployment Compensation Subcommittee considered unemployment issues. The Moore amendment would charge interest on currently outstanding loan balances if they have not been repaid by the beginning of fiscal year 1987.

Because of concern over how various states would be affected by the repayment and interest mechanisms, the Chairman of the Committee agreed that if consideration of this admittedly complicated issue could be deferred, he would pledge that a good faith bipartisan effort would be made to work out a mutually-acceptable proposal before we get to Conference on the reconciliation bill. We intend to hold him to this pledge.

Our major concern is the chronic insolvency of several state unemployment funds. Present law, which sharply excalates federal taxes until borrowing is paid off is a crude club but one which will achieve repayment in the 1980's. If we can develop an alternative which does not take the Federal budget further out of balance and which encourages the States to achieve solvent unemployment compensation systems, that would be preferable to present law. However, if the alternative is one which lets the insolvent States simply continue "business as usual" or which increases the federal deficit, then we would prefer to let present law run its course.

We hope that a bipartisan compromise can be worked out which is acceptable to all. Barring that, we intend to pursue the issue on the Floor and in Conference.

BARBER B. CONABLE, Jr.
BILL FRENZEL.
JOHN H. ROUSSELOT.
W. HENSON MOORE.
L. A. "SKIP" BAFALIS.
BILL GRADISON.

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ERRATA

[The following views were omitted from the printed report.]

ADDITIONAL VIEWS OF HON. JOHN HILER

I concur in the report as an excellent example of the proper role of the Subcommittee in conducting ongoing oversight of the Nuclear Regulatory Commission. While I have voted in favor of the report, however, it is not my intention to hold the NRC to hard and fast rules of operation as appears to be required in the recommendations, but rather intend that the Commission reassess its resident inspector program and propose the necessary changes for improvement itself. Surely the Commission, in its daily operation of the regional and resident inspector programs, is in the best position to make the needed revisions for the most effective use of its personnel and resources.

For example, I do not support the recommendation of the report that the NRC should place two inspectors at every site, nor the recommendation that there be a staggering of duty hours for inspectors. There is no evidence that more accidents occur in off-hours than at any other time, and the Subcommittee is not as well equipped as the Commission to determine the most effective hours of safety inspection. It must not be forgotten that the primary responsibility for safety is upon the utility, and the NRC must act to enforce that responsibility. It is not the duty of the NRC to attempt to oversee every facet of the operation of the plant at all times.

I do not support any recommendation or finding that the NRC needs a larger budget or more staff to perform its resident inspector program effectively. From my own background in small business, I know that a problem is not always best solved by throwing more money at it. Instead, a careful analysis of the best use of available personnel is a more efficient means of reaching an effective level of operation.

I strongly support the recommendation of this report that the NRC provide the Subcommittee with a written statement within 120 days as to how the Commission intends to increase the effectiveness of the resident inspector program. I look forward to receiving the NRC response.

JOHN HILER.

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