The original documents are located in Box 38, folder "1/2/76 HR10722 Social Security Act Appeals and Administrative Matters" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

signed 1/2/76

ACTION

APPROVED
JAN 2 - 1976

THE WHITE HOUSE
WASHINGTON

Last Day: January 2

December 30, 1975

Rec'd 1/3/76
To ARCHIVES
1/5/76

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 10727 - Social Security Act Appeals and Administrative Matters

Attached for your consideration is H.R. 10727, sponsored by Representative Burke and 12 others. The enrolled bill would amend the Social Security Act in two principal areas by modifying the social security hearings and appeals process and altering the method used by the Social Security Administration in reporting annual earnings subject to social security taxes. The bill would also make several changes in the Social Security Act and Internal Revenue Code which would affect limited groups of people, or change certain SSA and IRS administrative procedures.

A detailed discussion of the provisions of the enrolled bill and agency comments is provided in OMB's enrolled bill report at Tab A.

The Civil Service Commission strongly opposes the changes the enrolled bill would make in the SSI hearings and appeals process and recommends that you veto the legislation.

HEW, Max Friedersdorf, Counsel's Office (Lazarus), Bill Seidman and I recommend that you sign the enrolled bill.

RECOMMENDATION

That you sign H.R. 10727 at Tab B.

Approve _____ Disapprove _____

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 30 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10727 - Social Security Act Appeals and Administrative Matters
Sponsor - Rep. Burke (D) Massachusetts and 12 others

Last Day for Action

January 2, 1976 - Friday

Purpose

Makes changes in the Social Security Act hearings and appeals process; provides for the annual reporting of wages; makes certain other miscellaneous amendments.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval
Department of Commerce	No objection
Department of the Interior	Approval of Sec. 10; defers to HEW on Secs. 1-9
Department of Labor	Defers to other agencies
Department of the Treasury	Does not oppose (informal)
Civil Service Commission	Disapproval (Veto message attached)

Discussion

H.R. 10727 would amend the Social Security Act in two principal areas: it would modify the social security hearings and appeals process and it would significantly alter the method used by the Social Security Administration (SSA) in reporting annual earnings

subject to social security taxes. H.R. 10727 would also make certain other less important changes in the Social Security Act and Internal Revenue Code which would basically affect limited groups of people, or change certain SSA and IRS administrative procedures.

Social Security Act hearings and appeals process. H.R. 10727 would make a number of procedural changes in the hearings and appeals process for the purpose of improving the speed and quality of adjudications under the Social Security Act. Specifically, the bill would:

-- reduce from 6 months to 60 days the time limit within which Medicare and Old Age Survivors and Disability Insurance (OASDI) appeals may be taken.

-- increase from 30 to 60 days the time limit for filing appeals in supplemental security income (SSI) cases, and

-- provide SSI claimants with the same rights to Administrative Procedure Act (APA) hearing and administrative and judicial review processes as are currently available to OASDI and Medicare claimants.

In its views letter, HEW states that these changes would provide equal treatment for claimants under all three Social Security Act programs, i.e., SSI, OASDI, and Medicare. HEW also notes that the shorter time limit for requesting a hearing "could reduce, in many cases, the need to develop new medical evidence of disability," which is a major contributing factor to the delay in processing hearing requests. The Department estimates that the hearings and appeals provisions of H.R. 10727 could result in "administrative savings as great as $15.9 million in fiscal years 1977 through 1981."

The Civil Service Commission (CSC) strongly opposes the changes in the SSI hearings and appeals process. CSC believes that these changes will not achieve the goal of reducing the backlog and speeding up the claims process, but rather will over-judicialize the process, delay adjudication at the expense of aged and needy claimants, and congest court calendars.

Use of SSI hearing examiners. Under present law, the 200 SSI hearing examiners can hear only SSI cases. Administrative Law Judges (ALJs) can hear cases under all three SSA benefit programs-- OASDI, SSI, and Medicare.

H.R. 10727 would authorize the SSI hearing examiners also to hear all three types of cases for a temporary period ending December 31, 1978. Thus, this group of hearing officers could be used to supplement Social Security's corps of 400+ regular ALJs in disposing of pending cases. They would be treated during the temporary period as if they were ALJs appointed under the APA with attendant special job protection rights.

The enrolled bill also would repeal the present authority of the Social Security Administration (SSA) to appoint SSI hearing examiners without regard to APA requirements. The result would be that starting in calendar year 1979, only APA-qualified ALJs would be able to hear SSI cases.

The authorization for temporary use of SSI hearing examiners to handle cases under all three benefit programs is designed to reduce the SSA case backlog. Nearly 60% of SSI cases also involve OASDI issues. HEW believes that its inability to make full use of all hearing officers is one of the primary causes of the present backlog.

The enrolled bill provision is a modification of an earlier Administration proposal to permit present SSI examiners to handle cases involving concurrent OASDI and SSI issues, but not the more demanding Medicare cases, without changing their status as hearing examiners. The Administration proposal was so restricted because OASDI and SSI concurrent cases constitute a significant portion of the backlog, and to prevent upgrading the SSI examiners, now GS-13s, to GS-15. Such action would be inevitable if they were assigned cases under all three programs, since APA-qualified ALJs who hear all classes of cases are at the GS-15 level. To prevent such upgrading under the bill, both Committee reports make clear that GS-14 would be appropriate for these employees during the next three years.

HEW, in its letter on the enrolled bill, states that these sections would have a very beneficial impact on the social security hearings backlog. The Department concurs with the committee on grade level, and further states that it would not be practicable to use the temporary ALJs for the more complex Medicare cases. The Department strongly recommends enactment of these provisions, stating that "it will enable SSA within one year to reduce the backlog to manageable proportions...".

CSC, on the other hand, does not believe "any material reduction in the agency's backlog of cases [is] likely to be achieved by authorizing attorney-examiners, GS-13, who handle SSI claims to adjudicate a wider range of cases (those under Titles II and XVIII of the Social Security Act). This authority, along with the full range of Administrative Procedure Act protections (automatic within-grade increases, absence of performance ratings, and freedom from removal by the agency), proposed for personnel who have not established their capacity under the Administrative Procedure Act to fill such positions, could artificially inflate personnel costs for resolving SSI claims...".

Annual reporting of Social Security wages. H.R. 10727 contains an amendment which would enable SSA and the Internal Revenue Service (IRS) to establish a cooperative arrangement for the annual reporting and processing of wage reports required to be filed by employers. The purpose of the amendment, as stated by its sponsors, is to reduce the tax reporting burden of some four million employers.

Under current law and Treasury Department regulations, employers file with IRS quarterly tax returns containing summary wage and tax liability information (on Form 941), and detailed quarterly wage information on each employee subject to the social security tax (on Form 941-A). The detailed 941-A forms are then made available to SSA where they are processed to determine workers' coverage under social security. Employers must also file with IRS annual Federal income tax information and social security information (on Form W-2) with respect to each of their employees.

H.R. 10727 would make possible the elimination of quarterly Federal reports on individual employee earnings by requiring the Secretary of the Treasury to make available to HEW certain tax return information and by authorizing the two Departments to enter into an agreement by which HEW would process the tax return information for IRS. The bill also specifies administrative cost assessment procedures to insure that each Department reimburses the other for administrative expenses incurred on its behalf. Finally, the bill would enable SSA to make adjustments in the retirement test exempt amount and the contribution and benefit base based upon annual wage data. Currently, such adjustments are based on quarterly wage data because annual wage information is not available to SSA. The bill would be effective for statements reporting income after calendar year 1977.

Last year, the Secretaries of the Treasury and Health, Education, and Welfare submitted to Congress a "combined annual wage reporting report" which recommended legislation to authorize annual reporting to SSA of annual wages, including Social Security and IRS tax withholding information. To accommodate the conversion to annual wage data, the report recommended a method by which quarters of coverage would be measured by annual earnings. A draft bill to implement the report recommendations was submitted by HEW for OMB clearance on December 11, 1975, and is currently in the clearance process.

Unlike the HEW proposal, H.R. 10727 would not eliminate the need to measure earned quarters of coverage based upon quarterly wages. Although under the enrolled bill, employers would no longer be required to file the 941-A quarterly form, they would be required to include quarterly wage data for each employee on the annual W-2 form submitted to IRS.

HEW, in its views letter, states that the annual reporting system authorized by H.R. 10727 "would very significantly increase the SSA workload and would have a substantial adverse effect on the efficiency of the social security program." HEW estimates that the new system could increase its costs by $20-23 million in the first year (1978), and that paperwork savings to employers under H.R. 10727 would be considerably less than under the proposal currently under review at OMB. HEW believes, however, that Congress intended to permit some administrative flexibility in determining quarterly wages and states that SSA is exploring possible ways to implement the H.R. 10727 provision.

Labor states that a change to annual reporting could impact heavily on the unemployment insurance system by putting pressure on the States to eliminate their quarterly filing requirements. According to Labor, the change "would necessitate that the State UI systems switch to demand (request) reporting at a total annual increase in cost of $45 million."

Treasury advises that it prefers the wage reporting proposal developed jointly with HEW because that approach would not require a quarterly breakdown of the earnings of each employee and thus would involve less paperwork for employers. Nevertheless, Treasury does not oppose enactment of H.R. 10727.

West Virginia policemen and firemen. H.R. 10727 would permit the State of West Virginia to modify its social security coverage agreement to provide protection to certain policemen and firemen who had erroneously paid social security taxes in the belief that they were covered. The Social Security Amendments of 1972 contained a similar provision under which West Virginia had until 1974 to amend its social security coverage agreement. The State, however, failed to make the necessary amendments in the time allotted. H.R. 10727 therefore provides an extension, through 1977, of the time in which the agreement may be changed. HEW has no objection to this provision.

Deposit of Social Security contributions by State and local governments. Another provision of H.R. 10727 would require the Secretary of HEW to give notice at least eighteen months in advance of any changes he proposes to make in the way in which social security contributions are paid to SSA by State and local governments.

Current HEW regulations require State and local governments to deposit social security contributions by the middle of the second month after the end of each quarter. However, HEW is considering amending the regulations to require that deposits be made more frequently in order to obtain higher interest earnings for the social security trust funds. HEW states that the advance notice which H.R. 10727 would require is no greater than the advance notice the Department is already planning to provide States, and therefore has no objection to this provision.

SSI offset for Alaskan "Pioneers". The State of Alaska has a "longevity bonus" program under which it pays citizens who are 65 years of age and who have resided in the State for more than 25 years a monthly payment of $100, irrespective of their other income. The "longevity bonus" was designed to provide an incentive for older people to continue to live in the State. Under the demonstration project authority of the Social Security Act, HEW has been excluding Alaskan longevity bonus payments from determinations of income for purposes of SSI eligibility.

HEW states that it has no objection to making this income disregard permanent "because we believe the Alaskan program serves a legitimate state interest which would be defeated if supplemental security income payments were reduced because of them." HEW estimates that the provision would cost no more than $1 million annually.

We believe this provision is undesirable because of (1) the capacity of the State to supplement SSI on the basis of need, (2) the precedent for excluding other "special" income, (3) the possible unconstitutionality of such residency benefits, and (4) the added Federal SSI costs.

Virgin Islands quarterly tax collections. H.R. 10727 would provide for quarterly, rather than annual, payments by the U.S. Government to the government of the Virgin Islands of amounts to match the internal revenue collections made with respect to articles which are produced in the Virgin Islands and transported to the United States. The Committee reports on this provision state that the amendment would provide a more even flow of revenues to the government of the Virgin Islands and would offset a shortfall of $20 million in fiscal year 1975 revenues caused by a depressed economy and inflation.

Treasury and Interior have no objection to this provision.

Recommendations

HEW strongly supports the amendments to modify the Social Security Act hearings and appeals process and recommends approval of H.R. 10727. With respect to the wage reporting amendment, HEW states, "Although we disapprove the hasty manner in which section 8 was considered by the Congress and the lack of any opportunity for us to present a more viable alternative, we have no objection to enactment of this provision."

CSC recommends that the bill be disapproved. The Commission states:

> "The measure will complicate the processing of claims by the disabled, needy and aged through over-judicialization; would artificially inflate personnel cost for resolving these claims by personnel grand-fathered into quasi-judicial positions with little, if any, reduction in other cases for which a higher grade level has been established for regular Administrative Procedure Act personnel; and would likely further congest court calendars by authorizing more extensive judicial review of these claims."

Labor has grave concerns about the annual wage reporting provision, as explained above, but states that since that is only one aspect of the bill, the Department is not recommending veto despite its opposition to the provision.

* * * * *

While we believe several provisions in H.R. 10727 are undesirable, we do not believe they are sufficiently serious to warrant a disapproval recommendation, and, accordingly, recommend approval of the bill.

The amendments with respect to the social security hearings and appeals process appear to provide a workable, if not perfect, means for dealing with the current backlog of cases. The hearing examiner provisions, in particular, are not far out of line with the Administration's proposal. Moreover, the House Ways and Means Committee has indicated that it intends to consider the SSA appeals process in greater detail in the next session. Amendments to these provisions can be considered further, as necessary, in that context.

With respect to the wage reporting amendment, the delay in the effective date until 1978 will provide the Administration with sufficient time to submit any necessary amendments. In addition, the Chairman of the House Ways and Means Subcommittee on Social Security gave public assurances during the House floor debate that any such amendments will receive expeditious consideration. To this end, we recommend that you direct the principal agencies to conduct a study with recommendations to you of how annual wage reporting would affect current programs and operations, and what legislative changes to H.R. 10727 should be proposed. We are preparing letters to the agencies to carry out this recommendation, and will forward them shortly for your signature.

James M. Frey

Assistant Director for
Legislative Reference

Enclosures

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DEC 24 1975

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 10727, an enrolled bill "To amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes."

In short, the Department recommends enactment of this bill.

The first five sections of the bill address one of the most critical problems of the Social Security Administration (SSA)--the large backlog of cases awaiting hearings--and we therefore strongly support its enactment. The bill would permit, for a period of three years, the Social Security Administration's black lung Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners to hear cases under all titles of the Social Security Act. Limiting the black lung ALJ's and hearing examiners to hearing cases under the Federal Coal Mine Health and Safety Act and title XVI of the Social Security Act, respectively, has been a primary cause of the dramatic growth in the number of pending requests for hearing in the past few years. We believe that enactment of H.R. 10727 will improve our ability to deal with this backlog on a timely basis.

Currently, social security ALJ's meet qualifications set forth under the Administrative Procedure Act and can hear cases under the Old-Age Survivors, and Disability Insurance (OASDI) program, the Hospital Insurance (Medicare) program, and the Supplemental Security Income program. The SSI hearing examiners, appointed by the Secretary under special authority granted in title XVI of the Social Security Act, can only hear SSI cases. Our inability to utilize these hearing examiners to conduct other types of hearings, especially OASDI hearings, has resulted in an inefficient and costly use of manpower and thus is one of the primary causes for the large number of pending requests for hearings. (As of December 6, 1975, 100,163 hearings were pending.) H.R. 10727 would temporarily eliminate this distinction among hearings officers by authorizing the present SSI hearing examiners, through December 31, 1978, to hear OASDI and Medicare cases as well as SSI cases. The bill would thus give the Department the necessary temporary

authority to utilize one corps of hearings officers to deal quickly and directly with the hearings backlog. It would also make the Administrative Procedure Act applicable to SSI cases in the same way that it is now applicable to OASDI and Medicare cases, thereby providing for consistent treatment under all three programs. In this regard, we note that the report of the Ways and Means Committee on the bill, Report No. 94-679, makes clear that grade GS-14 would be an appropriate classification for those holding authority provided for by the bill, rather than GS-15. The necessity of using these temporary ALJ's to deal with the current hearings backlog will obviate our training them to handle the more complex issues that arise in provider hearings under title XVIII. In consequence, it will not be practicable to use these ALJ's for these more demanding title XVIII cases. Also, we are further considering whether it is appropriate to authorize use of temporary hearing examiners in any title XVIII case as proposed in the bill. We therefore agree that a GS-14 grade would be appropriate.

H.R. 10727 would also reduce the time limit for the filing of a request for a hearing of denied OASDI and most Medicare claims from six months to sixty days, and it would increase the time limit for SSI cases from thirty to sixty days. This change would provide equal treatment for claimants under all three programs. Also, the shorter time limit for requesting a hearing would serve to reduce the degree of change that can occur in the medical condition of a claimant for disability benefits between his previous denial and the date of his hearing; this could reduce, in many cases, the need to develop new medical evidence of disability. This medical development can be quite time-consuming and can therefore be a major contributing factor to the delay in the processing of hearing requests and disability claims, which comprise a major portion of the hearings backlog.

The changes which would be made by these sections of H.R. 10727 would have a very beneficial impact on the social security hearings backlog. We anticipate that enactment of H.R. 10727 will enable SSA within one year to reduce the backlog to manageable proportions, so that a claimant's average waiting time for a hearing will not exceed ninety days. Without this bill, we anticipate that such a reduction will require two years. The bill would entail no additional benefit payment costs, and could cause administrative savings as great as $16.4 million in fiscal years 1977 through 1981. Although we

are reviewing the need for temporary ALJ's to participate in title XVIII hearings, we strongly support sections one through five of the enrolled bill.

Section 6 of the bill would enable the State of West Virginia to modify its social security coverage agreement to provide social security protection, retroactive and prospective, to certain policemen and firemen. Social security contributions had been paid erroneously with respect to these policemen and firemen in the belief that they were covered. The Social Security Amendments of 1972 contained a similar provision under which West Virginia had until 1974 to amend its social security coverage agreement. The State, however, failed to make the necessary amendments in the time allotted, and section 6 therefore provides an extension, through 1976, of the time in which the agreement may be changed. The Department believes that equitable considerations should prevail in this instance and we therefore have no objection to this provision.

Section 7 of the bill would require the Secretary of Health, Education, and Welfare to give notice at least eighteen months in advance of any changes he proposes to make in the regulations concerning the frequency of the payment of social security contributions and the reporting of wages covered by social security by the States.

Current regulations of the Department require that States deposit social security contributions on or before the fifteenth day of the second month after the end of each calendar quarter. However, the Department is now considering amending the regulations to require that deposits be made more frequently to bring the State deposit requirements more in line with those that now apply to private employers (such a change would result in significantly higher interest earnings for the social security trust funds). We have, however, been assuring State social security administrators that we will provide substantial lead time prior to instituting any changes in deposit procedures. The advance notice which section 7 would require is no greater than the advance notice we are planning to provide States, and we therefore have no objection to this provision.

Section 8 of the bill would enable the Social Security Administration (SSA) and Internal Revenue Service (IRS) to

establish a cooperative arrangement for the annual reporting and processing of wage reports required to be filed by employers. We have no objection to this provision.

Under current law and Treasury Department regulations, about four million employers file quarterly tax returns (on Form 941) with the IRS containing summary wage and tax liability information. Accompanying each quarterly Form 941 is a Schedule A (or a magnetic tape equivalent) containing a detailed listing of quarterly wages paid to each employee subject to tax under the Federal Insurance Contributions Act (FICA). Schedules A, consisting of six million pages and containing wage information on approximately 75 1/4 million employees each quarter, are detached by IRS and forwarded to SSA for processing. Wage data for certain other categories of workers (household employees, agricultural employees, State and local government employees and the self-employed) are also reported on appropriate forms to IRS for transmitting to SSA. In addition, SSA receives directly from about 4,000 employers quarterly wage information on magnetic tape covering 16 million employees. The quarterly wage information for each employee is necessary to determine his eligibility for and the amount of his social security benefits.

Under current law, employers must also file federal income tax information (total annual compensation paid and federal income tax withheld) and social security information (total annual FICA wages and FICA withholding amounts) on form W-2 with respect to each of their employees. Approximately 160 million W-2 forms are filed annually.

Section 8 of the enrolled bill would make possible the elimination of quarterly reports on the covered earnings of individual employees by requiring the Secretary of the Treasury to make available to the Secretary of Health, Education, and Welfare certain tax return information and by authorizing the two Secretaries to enter into an agreement by which the Secretary of Health, Education, and Welfare would process the information submitted in the returns. Section 8 also specifies administrative cost assessment procedures to insure that the Social Security trust funds and the general funds of the Treasury bear their proper share of the costs of processing the information. Finally, the bill would enable

SSA to make adjustments in the retirement test exempt amount and the contribution and benefit base based upon annual wage data. Currently, such adjustments are based on quarterly wage data because annual wage information is not available to SSA.

The bill would not change the provisions of the social security law which require the use of quarterly wage data in determining whether a person has earned the quarters of coverage necessary for eligibility for social security benefits. Furthermore, the bill would have no effect on the way in which the States report earnings to SSA. The bill would be effective for statements reporting income received after 1977.

Last year, pursuant to P.L. 93-490, the Secretaries of the Treasury and Health, Education, and Welfare submitted to Congress a "combined annual wage reporting report" which recommended legislation to authorize the implementation of a system of annual reporting of annual wages for social security and income tax purposes. To accommodate the conversion to annual wage data, the report recommended a method by which quarters of coverage would be measured by annual earnings. Conversion to this system would have resulted in a substantial overall savings to the Federal Government. A draft bill to implement the report recommendations was submitted by this Department to the Office of Management and Budget (OMB) for clearance on December 11, 1975. So far, OMB has not cleared our bill for submission to Congress.

Unlike the Department's proposal, H.R. 10727 would not eliminate the need to measure earned quarters of coverage based upon quarterly wages. Thus, although under the bill employers would no longer be required to file quarterly forms 941-A and SSA would be able to obtain annually, and process for IRS, a variation of the current W-2 forms, an additional mechanism for determining quarterly wages would continue to be necessary. The Senate Report accompanying H.R. 10727 (Rept. No. 94-550) states that the single consolidated annual wage report for each employee would show "both his total earnings for the year and the quarterly breakdown of his social security earnings." (p. 9) However, in a colloquy on the House floor, Congressman Burke, Chairman of the Social Security Subcommittee of Ways and Means, agreed that the Secretary of Health, Education,

and Welfare would have the discretion "to require a more simplified version which might only necessitate a quarterly checkoff for employees earning $50 or more in that quarter without filing a detailed dollar amount for each quarter." (Cong. Rec., December 19, 1975, p. H13065)

The annual reporting system authorized by H.R. 10727 would very significantly increase the SSA workload and would have a substantial adverse effect on the efficiency of the social security program. The processing of annual reports which include a quarterly breakdown of wages would require annually an additional 1,120 man-years and the first-year administrative costs to SSA would be $19.6 million. The Social Security Administration is reviewing the feasibility of an annual reporting system with a checkoff by each employer to indicate the quarters in which an individual was paid at least $50, the wage necessary per quarter to earn a quarter of coverage. One aspect of this approach which we must examine is the effect it will have on those individuals whose earnings exceed $50 a quarter only by adding the wages paid by two or more employers. The checkoff would not provide the information necessary to make this calculation. The checkoff system would require annually 855 man-years more than the current system and the first-year administrative cost to SSA would be $17.1 million. Maintaining the current quarterly reporting system for State and local governments, as the bill requires, would cost $3.8 million per year over current costs and in addition to the first-year administrative cost estimates provided above. Furthermore, paperwork savings to employers under H.R. 10727 would be considerably less than under the Department's proposal.

The Department advised members and staffs of the Senate Finance Committee and House Ways and Means Committee of our preference for the wage reporting proposal described in the report to Congress on combined annual wage reporting and of our great concern that the provisions in H.R. 10727 were added in haste without hearings and without considering the administrative and cost implications of the proposal. Although we disapprove the hasty manner in which section 8 was considered by the Congress and the lack of any opportunity for us to present a more viable alternative, we have no objection to enactment of this provision. The colloquy on the House floor provides us with some administrative flexibility.

Furthermore, the House amended the bill to postpone the effective date of this provision from 1977 to 1978. The maintenance of the current system for two years will provide us with additional time to implement the annual reporting system and to advise the Congress of any changes in the law which could reduce the administrative cost of converting to an annual wage reporting system. We have assurances, confirmed on the House floor by Congressman Burke (Cong. Rec., December 19, 1975, p. H13065), that any additional changes we propose will be given an expeditious hearing by the appropriate subcommittees. We hope that OMB will complete its review of our draft bill at an early date so that we can submit it to the Congress.

Section 9 of the bill would require that in determining the income of an individual for purposes of title XVI of the Social Security Act, there be excluded any monthly or periodic payments provided under a program established prior to July 1, 1973, if such payments are made by the State of residency of the individual and are based solely on the age (65) and duration of residence in the State of the individual.

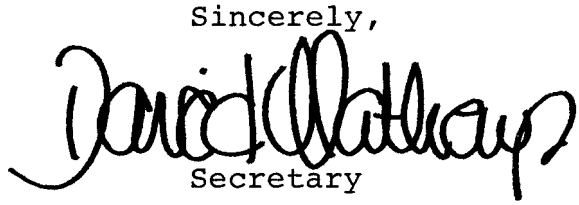
Alaska is the only State which has a program meeting the conditions specified in section 9. As a result of the high cost of living in Alaska, many long-term residents of the State have, in the past, moved to other areas of the country upon retiring. Alaska therefore instituted a program of payments to such individuals as an incentive to keep them in Alaska. Under the demonstration project authority of section 1115 of the Social Security Act, the Department has been excluding Alaskan longevity payments from determinations of income for purposes of title XVI. We have granted this waiver in order to allow the State of Alaska to determine if such payments provide an incentive which keeps retirees in the State. We have no objection to making this income disregard permanent because we believe the Alaskan program serves a legitimate State interest which would be defeated if supplemental security income payments were reduced because of them.

Section 10 of the bill amends section 7652 of the Internal Revenue Code and does not pertain to the programs of this Department. We therefore defer to the Department of the Treasury.

On balance, because we do not object to any of the provisions in the bill and strongly support sections one through five, we urge that the enrolled bill be approved.

We have enclosed, for your information, cost estimates for each provision of the bill.

Sincerely,



Secretary

Enclosure

COST ESTIMATES: H.R. 10727

1. SECTIONS 1 - 5: These sections will result in cost savings as follows:

FY 1977	$2.816 million	
FY 1978	$2.853 million	
FY 1979	$3.358 million	*/
FY 1980	$3.620 million	
FY 1981	$3.802 million	
TOTAL	$16.449 million	

*/ Substantial increase in cost avoidance because temporary authority for SSI hearing examiners expires on December 31, 1978. This expiration is 3/4 effective in FY 1979 and fully effective in FY 1980 and 1981.

2. SECTION 6: no cost.

3. SECTION 7: no cost.

4. SECTION 8: will cost between $20.9 and $23.4 million in the first year (1978).

5. SECTION 9: will cost no more than $1 million per year.

THE UNDER SECRETARY OF COMMERCE
Washington, D.C. 20230

DEC 24 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H.R. 10727, an enrolled enactment

> "To amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes."

H.R. 10727 would amend the Social Security Act to make certain changes in the provisions governing hearings in connection with programs administered by the Social Security Administration.

The bill would also make certain other changes, including an amendment to reduce the tax reporting burdens of employers by providing for annual rather than quarterly reporting of social security wages.

This Department defers to other Departments more directly concerned with administration and financing of Social Security Administration programs. The Department supports the amendment providing for annualized rather than quarterly reporting of social security wages since such change should yield a substantial savings of time and money to industry and government alike. The Department interposes no objection to enactment of H.R. 10727.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,

James A. Baker, III

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 23 1975

Dear Mr. Lynn:

This responds to your request for our views on the enrolled bill, H.R. 10727, "To amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes."

With respect to Sections 1 through 9 of the bill, we defer to the views of the Department of Health, Education, and Welfare. With respect to Section 10 of the bill, we recommend its approval by the President.

Sections 1 through 9 of H.R. 10727 would expedite the holding of hearings for social security claimants whose application for benefits have been denied. The legislation is designed to clear up a backlog of some 103,000 cases now awaiting hearing by making certain changes in the hearings and appeals processes.

Section 10 of the enrolled bill provides for quarterly, rather than annual, payments to the Government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

Under current law (26 U.S.C. 7652 (b)), the United States Government imposes upon articles coming into the United States from the Virgin Islands, a tax equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture. The tax revenues are placed in a special matching fund in the U.S. Treasury against which the Virgin Islands draws amounts equal to the local revenue collected by the Virgin Islands Government. During recent years the Virgin Islands Government has been eligible to draw down the full amount of the fund which amounts to between $16 million and $19 million annually.

The quarterly payment is particularly pressing for the Virgin Islands at this time since the government faces a $20 million deficit in fiscal year 1976. By law, deficit spending is prohibited to the Government of the Virgin Islands. A number of

factors have contributed to the deficit, including lower tourist related revenues and lower income tax revenues due to the U.S. tax cuts. There is currently no spending on capital improvements, government employment has been frozen, schools are on double shift, and it is reported likely that the hospitals will lose accreditation due to inadequacies which would be brought about by further budget cuts.

The change to quarterly payments will provide a short-range benefit to the Government of the Virgin Islands and help alleviate current fiscal problems.

Sincerely yours,

Royston C. Hughes

Assistant Secretary of the Interior

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

DEC 24 1975

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

This is in response to your request for our views on H.R. 10727, an enrolled bill. The bill would "amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles and for other purposes." In addition to expediting hearings (including HEW black lung hearings), the bill would permit the Secretaries of Health, Education and Welfare and of the Treasury to cooperate in switching from the present system of quarterly reporting by employers of employee wages to an annual reporting requirement.

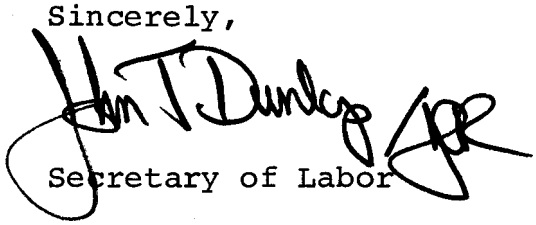
Under present law, the Department of Health, Education and Welfare could require by regulation an annual rather than quarterly reporting of wages. However, legislation is necessary in order for agreements to be made between HEW and Treasury and in order to allow Treasury to provide certain information to HEW. H.R. 10727 would authorize such joint action. This would not be effective until the filing of statements reporting income received after 1977.

A switch to annual reporting rather than quarterly would impact heavily on the unemployment insurance system. Such a change would put pressure on the States to eliminate their quarterly filing requirements. This, in turn, would necessitate that the State UI systems switch to demand (request) reporting at a total annual increase in cost of $45 million.

The Department of Labor has grave concerns about this part of the bill. We are appreciative of the references in the House floor discussion to further study of the issue prior to the 1978 effective date. Hopefully some of the problems of the UI system can be dealt with at that time.

In view of the fact that this provision is only one aspect of the larger bill, we are not recommending veto despite our opposition to the provision. We defer to other agencies more concerned with respect to the principal provisions of the bill. We would recommend, however, that in signing the bill the President indicate there are problems with the provision as it impacts on the UI system and that this should be an important part of the further House study.

Sincerely,



Secretary of Labor

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

CHAIRMAN

December 24, 1975

Honorable James T. Lynn
Director
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attn: James M. Frey, Assistant Director
for Legislative Reference

Dear Mr. Lynn:

This is in response to your request for a report on enrolled bill H.R. 10727, "To amend the Social Security Act to expedite the holding of hearings under titles II, XVI and XVIII by establishing uniform review procedures under such titles, and for other purposes."

Among other things, the subject bill requires "on the record" determinations in Supplemental Security Income (welfare) cases in line with the formal adjudicatory provisions of the Administrative Procedure Act; extends the time for filing requests for SSI hearings from 30 to 60 days; requires judicial review of the Secretary's factual determinations in these cases; and converts the attorney-examiners who now hear these cases to Administrative Procedure Act status and temporarily authorizes them to hear the full range of cases coming before the Social Security Administration. The bill also amends the reporting requirements in respect to social security deductions by the nation's employers.

In the light of its responsibilities under the Administrative Procedure Act, the provisions of H.R. 10727 are of serious concern to the Commission. In its opinion the goal sought by this legislation is not likely to be achieved. To the contrary, the bill's effects, both immediate and long-range, will over-judicialize the SSI claims process, delay the adjudication of these cases, further tax over-burdened court calendars and, by changing the status of attorney-examiners, will add several million dollars to personnel costs.

Section (c)(1) formalizes the Supplemental Security Income claims process by requiring that these cases be heard and decided in line with the formal adjudicatory process of the Administrative Procedure Act. The judicialization of a claims process does not effectively serve the aged and needy claimants whose interests should be foremost and whose cases should be disposed of in a non-legalistic, informal setting. Nor is any material reduction in the agency's backlog of cases likely to be

achieved by authorizing attorney-examiners, GS-13, who handle SSI claims to adjudicate a wider range of cases (those under Titles II and XVIII of the Social Security Act). This authority, along with the full range of Administrative Procedure Act protections (automatic within-grade increases, absence of performance ratings, and freedom from removal by the agency), proposed for personnel who have not established their capacity under the Administrative Procedure Act to fill such positions, could artificially inflate personnel costs for resolving SSI claims since the employees engaged in this work (which constitutes close to 20 percent of the agency's case load) would have little, if any, opportunity for adjudicating cases for which higher grade levels have been established.

Further, in respect to judicial review, the legislation will place an additional burden on the congested calendars of the courts. The bill amends the current requirement which states that the Secretary's findings of fact are final and non-reviewable and provides for judicial review of these determinations.

Finally, despite the fact that the SSI examiners are currently serving under appointments without time limits, the legislation - perhaps because of a drafting error - provides that their "appointments shall terminate" not later than December 31, 1978.

H.R. 10727 will not, in the opinion of the Commission, achieve its purpose. The measure will complicate the processing of claims by the disabled, needy and aged through over-judicialization; would artificially inflate personnel cost for resolving these claims by personnel grandfathered into quasi-judicial positions with little, if any, reduction in other cases for which a higher grade level has been established for regular Administrative Procedure Act personnel; and would likely further congest court calendars by authorizing more extensive judicial review of these claims. For these reasons, the Commission recommends that the bill be disapproved.

By direction of the Commission.

Sincerely yours,

Robert Hampton

Robert E. Hampton
Chairman

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1552

Date: December 29 Time: 1000am

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus
Dick Parsons
Bill Seidman

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 30 Time: 500pm

SUBJECT:

H.R. 10727 - Social Security Act Appeals and Administrative Matters

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

_X_ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

TO THE HOUSE OF REPRESENTATIVES

I am returning today without my approval, H.R. 10727. Although I am sympathetic to the purpose sought to be achieved by this measure, i.e. the prompt resolution of claims, the adverse consequences which will flow from certain provisions outweigh what little good may be achieved. Our foremost concern should focus on the needs of the disabled, aged, and needy citizens. These citizens who initiate claims for benefits must travel through complicated and involved processes at various levels within the Social Security Administration before final resolution of their cases. Although extensive hearings have been held concerning the processing of these cases, H.R. 10727 is barren of any real reforms or procedural changes which would simplify and expedite the resolution of these cases. The measure, at best, is palliative and the implementation of its provisions would complicate rather than remedy.

A proper and wide-spread concern exists over the mounting number of undecided cases at the several levels of review that exist within the agency. At each of these levels the number of cases has been growing yearly and the resolution of them slows. Despite this, the bill would further complicate the process by over-judicializing the hearing and decisional procedures in respect to SSI claims; would provide quasi-judicial status and other protections for personnel who have not met merit standards under the Administrative Procedure Act; and in view of the grade levels associated with regular Administrative Procedure Act status could artificially inflate the personnel costs for those now utilized in resolving Supplemental Security Income claims. Furthermore the measure would exacerbate the heavily congested calendars of our courts by authorizing more extensive judicial review of these claims.

Since I am unable to accept H.R. 10727 for these reasons, I urge the Congress upon its return to submit a measure which will serve the interest of a large number of our needy and disadvantaged citizens by simplifying and expediting the procedures for resolving their claims for benefits.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

10
J Cavanaugh
12-29-75
10 a.m.

DEC 29 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10727 - Social Security Act Appeals and Administrative Matters
Sponsor - Rep. Burke (D) Massachusetts and 12 others

Last Day for Action

January 2, 1976 - Friday

Purpose

Makes changes in the Social Security Act hearings and appeals process; provides for the annual reporting of wages; makes certain other miscellaneous amendments.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval
Department of Commerce	No objection
Department of the Interior	Approval of Sec. 10; defers to HEW on Secs. 1-9
Department of Labor	Defers to other agencies
Department of the Treasury	Does not oppose (informal)
Civil Service Commission	Disapproval (Veto message attached)

Discussion

H.R. 10727 would amend the Social Security Act in two principal areas: it would modify the social security hearings and appeals process and it would significantly alter the method used by the Social Security Administration (SSA) in reporting annual earnings

THE WHITE HOUSE

WASHINGTON

December 30, 1975

MEMORANDUM FOR: JIM CAVANAUGH

FROM: MAX L. FRIEDERSDORF M.L.F.

SUBJECT: H.R. 10727 - Social Security Act Appeals and Administrative Matters

The Office of Legislative Affairs concurs with the agencies that the bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1552

Date: December 29 Time: 1000am

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus
Dick Parsons

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 30 Time: 500pm

SUBJECT:
H.R. 10727 - Social Security Act Appeals and Administrative Matters

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

_x_ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 12/30/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

DEC 30 REC'D

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1552

Date: December 29 Time: 1000am

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus
Dick Parsons
Bill Seidman

cc (for information): Jack Marsh
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Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 30 Time: 500pm

SUBJECT:
H.R. 10727 - Social Security Act Appeals and Administrative Matters

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__x__ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Approved

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JMM

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-679

SOCIAL SECURITY HEARINGS AND APPEALS

NOVEMBER 20, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 10727]

The Committee on Ways and eMans, to whom was referred the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SCOPE

The purpose of H.R. 10727 is to expedite the holding of hearings for social security claimants whose applications for benefits have been denied. This is an emergency bill designed to take the most effective action that can be taken immediately to help reduce the enormous backlog of social security appeals cases new pending within the Social Security Administration. At the present time, there are approximately 105,000 cases before the Bureau of Hearings and Appeals of the Social Security Administration, including social security disability and retirement cases, Supplemental Security Income (SSI) cases, Medicare cases, and black lung cases.

The appeals procedures under the SSI program (title XVI of the Act) differ from those that apply to hearings conducted under the Old-Age, Survivors and Disability Insurance program (title II) and the Medicare program (title XVIII). In addition, SSI appeals are heard by social security hearing examiners whose appointment is provided for in title XVI of the Act, while social security and medicare appeals are heard by Administrative Law Judges appointed under the Administrative Procedure Act.

H.R. 10727 would eliminate the distinctions between hearings under title XVI and those that are conducted under title II and title XVIII of the Act. The bill also provides for the more effective use of hearing officers within the Social Security Administration by giving the

authority to persons who have been appointed as SSI hearing examiners to hear cases under title II and title XVIII for a temporary period of time terminating December 31, 1978. They will, unlike current SSI hearing examiners, operate under the provisions of the Administrative Procedure Act which are designed to assure independence of hearings officers from agency control.

General Discussion

Need for Legislation

There is currently a tremendous backlog of hearings cases before the Bureau of Hearings and Appeals and every Member of Congress has heard from constituents concerning cases where claimants have had to wait many months and even years for a hearing and decision in their case. Within recent months the Bureau of Hearings and Appeals has made significant gains in increasing the productivity of Administrative Law Judges (ALJs) with the result that the current case backlog is being reduced by 1,000 cases a month. If the authority in this bill is enacted it has been estimated that the hearing backlog will be reduced by 3,000 a month so that in 18 months cases can be adjudicated within 90 days.

At the request of 73 Members of Congress, the Subcommittee on Social Security held extensive hearings on this subject in September and October and heard from 43 witnesses including some of the foremost experts in administrative law and social security. The Subcommittee also heard from the various associations of hearing examiners and Administrative Law Judges. Many suggestions were made for changes in the hearings procedures and the administration of the disability programs ranging from minor amendments to massive structural changes.

In this regard, the Committee recommends that the Social Security Administration authorize the Center for Administrative Justice to make a study of the Social Security appeals procedures and make recommendations for any structural changes relating to improving both the speed and quality of Social Security adjudications. Although most witnesses appearing before the Subcommittee agreed that the current appeals system under the Administrative Procedure Act is in the public interest, some witnesses, including the Civil Service Commission, expressed a contrary view. Thus, the recommended study should address this broad issue together with such subjects as the appropriate qualifications, method of appointment, and position and grade classification of Social Security ALJs.

Although it intends to consider the appeals process in depth when it takes up comprehensive Social Security legislation next session, the Committee now recommends a relatively limited bill which could be enacted into law this year. Additional amendments might have the effect of complicating and making the bill more subject to controversy.

Provisions of the Bill

The bill eliminates the distinction in the nature of hearings and hearing officers under the Social Security and SSI programs, thus resulting in a common corps of hearing officers authorized to conduct hearings under both programs with common procedural safeguards

provided under the Social Security Act and the Administrative Procedure Act.

The first provision of the bill would amend Section 1631(c) of the Social Security Act to provide the same rights to hearing and administrative and judicial review with respect to claims under title XVI (SSI) of the Act as to apply to title II (Social Security) and title XVIII (Medicare) claims under Section 205(b) and 205(g) of the Act. This is necessary to override an interpretation of the Civil Service Commission that the Administrative Procedure Act was not applicable to SSI hearings and which required the appointment of non-APA hearings officers who could not hear Social Security and Medicare cases. This action greatly exacerbated the current hearing crisis and the validity of the SSI hearings has been challenged in the Courts as second class justice. The Committee bill will put this matter to rest by clearly providing on-the-record administrative hearings and judicial review of a parallel nature for Social Security, SSI and Medicare claimants.

The principal modifications to Section 1631(c), which presently provides general authority to the Secretary to conduct hearings on SSI appeals, would be:

(1) the specfic requirement that decisions after a hearing must be on the basis of evidence adduced at the hearing;

(2) an increase in the period during which requests for review must be filed from 30 days to 60 days;

(3) the addition of specific authority for the Secretary to hold hearings and make findings of fact, administer oaths, examine witnesses and receive evidence; and authority to receive evidence at a hearing even though inadmissible under the rules of evidence applicable to court procedure;

(4) to make the final determinations of the Secretary subject to the "substantial evidence rule" upon judicial review by eliminating language presently in Section 1631(c)(3) whch provides that the determinations of the Secretary "as to any fact shall be final and conclusive and not subject to review by any court".

The principal effect of this last modification is to apply the same rules of judicial review of title XVI cases as apply to title II cases. By removing this language from title XVI, findings of fact of the Secretary in SSI cases, if supported by substantial evidence, shall be conclusive as are such findings under title II. Your Committee believes that both programs should be under the "substantial evidence rule", but that this should not be interpreted by the courts as a license to vary from strict adherence to its principles. With over 4,000 social security disability cases now pending in the United States District Courts, and the possibility of a similar caseload developing in the SSI program, when its appeals are fully felt, the practice of certain courts to make *de novo* factual determinations would result in very serious problems for the federal judiciary and the social security program.

Your Committee bill would repeal section 1631(d)(2) of the Social Security Act. This is the section of the law under which, pursuant to Civil Service Commission interpretation, non-APA hearing examiners have been appointed. The continuation of this authority is inappropriate inasmuch as title XVI cases in the future will require APA hear-

ing officers. The Committee believes that an adequate supply of APA hearing officers can be obtained from the current pool of SSI hearing examiners and Black Lung ALJs who meet or will meet the requirements for regular appointments and through the on-going recruitment by the Civil Service Commission of ALJs in the private and governmental sectors.

The Committee bill also grants authority for those SSI hearing examiners (who have been appointed under section 1631(d)(2)) to hear cases under titles II, XVI, and XVIII until December 31, 1978 as temporary Administrative Law Judges if the Secretary of HEW finds it will promote the achievement of the objectives of these titles. It is the Committee's understanding that the Secretary will make this finding as to all SSI hearing examiners who have been appointed. The Committee also understands that now virtually all the temporary Black Lung judges hold SSI hearing examiner appointments and this would provide the Bureau of Hearings and Appeals the 200 judges it needs to reduce the backlog. Furthermore, by the end of 1978, all SSI examiners will have acquired sufficient adjudication experience to meet the experience requirement for appointment as regular ALJs. They would, as they met the experience requirement, be afforded the opportunity to be placed on the register for regular ALJ appointment on a merit basis under the regular Civil Service procedures.

It is hoped that these requirements and procedures will be applied in a manner to effectively serve the needs of the Social Security Act programs. The Committee is not convinced that these needs have been adequately served in the past by the Office of Administrative Law Judges, Civil Service Commission. The performance of this office in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA and in downgrading title II social security adjudications as bearing "little resemblance to the full-blown adversarial proceedings conducted by Administrative Law Judges, under the Administrative Procedure Act, in regulatory agencies" does not reflect the will of Congress.

The Office of Administrative Law Judges should be mindful of its ministerial responsibilities in supplying registers from which adequate numbers of ALJs can be hired by HEW to adjudicate social security claims. There are indications that in the past these registers have not been supplied with the speed and with the number of candidates thereon which HEW needed to get better control over the hearings backlog. In evaluating current SSI hearings examiners for regular ALJ appointments great weight should be given to experience in actually adjudicating Social Security and Black Lung cases and roadblocks should not be created in unduly lengthy and bureaucratic appointment procedures. Recent statistics show that of the 55 applications of SSI hearing examiners for the regular ALJ registers which have been acted upon by the Civil Service Commission, only 5 hearing examiners have been found eligible. This suggests to the Committee that the Office of Administrative Law Judges is applying its standards unrealistically. Now that a majority of the ALJ corps in the Federal Government are working under Social Security Act programs, the Civil Service Commission should reexamine its ALJ appointment standards to assure that they are relevant to the positions that have to be filled.

To avoid any possible misinterpretation, the bill specifically provides that the temporary hearing officers authorized to conduct hearings under the bill would be subject to all the provisions of the Administrative Procedure Act that assure independence from agency control. These provisions would include: Subchapter II of chapter 5 of title 5 of the United States Code (the substantive provisions relating to APA adjudications); the second sentence of section 3105, of title 5 U.S.C. (assignment of cases in rotation and the prohibition of assignment to duties inconsistent with their responsibilities as hearing officers); and the deeming of them as hearing examiners appointed under section 3105 so that, among other things, they would be exempt from agency performance rating requirements (5 U.S.C. 4301(2)(E)) and agency determination of performance acceptability for in-grade increases (5 U.S.C. 5335(a)(3)(B)) and making Civil Service responsible for determining their pay levels (5 U.S.C. 5362), removal for cause (5 U.S.C. 7521), and general administration (5 U.S.C. 1305). The Committee is unaware of any prejudicial "agency control" exercised by HEW under the parallel provisions it has established for SSI hearing examiners. However, the specific application of these provisions of the APA, together with the provisions of the bill applying the same procedural safeguards to review proceedings under title XVI as apply under title II, will eliminate the possibility of the courts determining that SSI review procedures do not comply with the Administrative Procedure Act or due process.

Moreover, the specific enumeration of these provisions of the APA as applicable to the temporary ALJs should not be interpreted to make these adversary proceedings or otherwise "judicialize" procedures under title II, XVI, and XVIII. The enumeration of these provisions also should in no way suggest that they are not applicable to the regular Social Security ALJs. Your Committee and the Department of HEW consistently over the years have declared that the language in title II (and under the provisions of this bill, title XVI) of the Social Security Act call for "on-the-record" hearings which invoke the provisions of the Administrative Procedure Act.

Although the bill is silent on the grade level of temporary ALJs, the Administration's proposal made at the hearing before the Subcommittee envisioned a GS–14 for such officers who would have been allowed to hear concurrent cases (applications for SSI and Social Security) in addition to those solely for SSI benefits. Your Committee's bill authorizes broader authority for these temporary ALJs so that the Bureau of Hearings and Appeals will have the maximum amount of flexibility in eliminating the appeals backlog. These temporary ALJs, therefore, would also be able to hear Social Security and Medicare cases. For these reasons and also because the Black Lung ALJs who will be included in the temporary corps have already been classified at the GS–14 level, the Committee believes that GS–14 would be an appropriate classification for those holding authority provided for by the bill. The fact that the Committee does not suggest or mandate by law a GS–15 for these individuals does not indicate that it believes that a lower grade is appropriate for regular Social Security ALJs. In fact, the Committee was not impressed with the rationale of the Civil Service Commission which emphasized the nonadversary aspect of the Social Security hearing in justifying the dif-

ferential in grade level between regulatory agency ALJs (GS–16) and the Social Security ALJs (GS–15).

The final provision in the bill will reduce the period for which Social Security and Medicare appeals may be taken at both the reconsideration and hearing level from six months to 60 days.

The Committee believes that a 6-month time period is unnecessarily long for a claimant to appeal a title II or title XVIII decision of his claim. In fact, because a mandatory reconsideration has been adopted administratively under this authority, a double period may result. An individual whose claim has been initially denied has a full six months to decide whether to request a reconsideration and then another 6 months to decide whether to appeal to an Administrative Law Judge.

More than 65 percent of the hearings requested are filed within 60 days after the claimants receive notification that their reconsideration had not resulted in the decision being overturned. If the time limit was reduced to 60 days, there may be a decrease in the number of hearing requests filed. Those individuals who have not filed for review within 60 days may file a new application for benefits on the basis of new evidence or changed condition which in most instances can be adjudicated more speedily at the initial determination level. Also, reducing the time limit would result in a reduction in administrative costs and, perhaps most importantly would be beneficial in that less case development would be needed at the hearing level. This situation has played a major role in delaying decisions in appealed cases. Often hearings filed in the 4th, 5th, or 6th months following the reconsideration determination are virtually new cases and call for extensive medical and vocational development which takes the ALJ away from his primary role of deciding cases. In order to assure that the rights of individuals are not adversely affected, your Committee has instructed the Social Security Administration to undertake an extensive public information program which will advise social security applicants of the shortened length of time for filing an appeal.

Extending the time limit for requesting SSI hearings would make the limit generally consistent with the time limit applicable to Social Security, Black Lung, and most Medicare claims and would be beneficial from a procedural and administrative standpoint particularly in concurrent benefit cases. The Social Security Administration informed the Committee that currently it is granting many waivers for late filing of SSI appeals, and extending the present 30 day period will give more reality to present procedures.

Other Matters Required To Be Discussed Under House Rules

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was ordered reported by a unanimous voice vote.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of hearings conducted in September and October of this year by the Subcommittee on Social Security your committee concluded that it would be desirable to enact legislation to expedite the holding of hearings for social security claimants as is provided in H.R. 10727.

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives your committee states that this bill will involve no new budgetary authority or new or increased tax expenditures.

With respect to clause 2(1)(3)(C) and clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives your committee advises that no estimate or comparison has been submitted to your committee by the Director of the Congressional Budget Office relative to H.R. 10727, nor have any oversight findings or recommendations been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives your committee states that this bill would not have any inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of the bill: Your Committee estimates that there will be no additional program costs and possibly a slight savings in administrative costs this fiscal year and each of the following five fiscal years, as a result of the enactment of this legislation. The Department of HEW agrees with the Committee's estimate.

Section-by-Section Analysis of H.R. 10727

Section 1 of the bill would revise Section 1631(c) of the Social Security Act to provide to an applicant for benefits under title XVI of that Act the same rights to administrative and judicial review that Section 205(b) of that Act provides with respect to claims for benefits under titles II and XVIII of the Social Security Act.

The principal modifications to Section 1631(c)—which provides general authority to the Secretary of Health, Education, and Welfare to conduct hearings—would be:

(1) to include a specific requirement that decisions after a hearing must be on the basis of evidence adduced at the hearing;

(2) to make the final determination of the Secretary subject to the substantial evidence rule upon judicial review; the provision in current law (Sec. 1631(c)(3)) which provides that the determinations of the Secretary "as to any fact shall be final and conclusive and not subject to review by any court" would be repealed;

(3) to increase the period during which requests for review may be filed from 30 days to 60 days;

(4) to provide specific authority for the Secretary to hold hearings and make findings of fact, administer oaths, examine witnesses and receive evidence; and

(5) to authorize the Secretary to receive evidence at a hearing even though inadmissible under the rules of evidence applicable to court procedure.

Section 2 would repeal Section 1631(d)(2), thus terminating the authority of the Secretary of Health, Education, and Welfare to appoint individuals as hearing examiners to conduct hearings under title XVI.

Section 3 would authorize individuals who were appointed under Section 1631(d)(2) of the Social Security Act prior to enactment of the bill to conduct hearings under titles II (Social Security), XVI (SSI) and XVIII (Medicare) of the Social Security Act when the Secretary of Health, Education, and Welfare finds that it will promote the achievement of the objectives of those titles and notwithstanding the fact that these individuals were not appointed as Administrative Law Judges under the Administrative Procedure Act (5 U.S.C. section 3105). The appointments made prior to enactment under Section 1631(d)(2) may be continued until December 31, 1978. Until such date these individuals shall be deemed hearing examiners (ALJs) appointed under such section 3105 of title V and subject to subchapter II of Chapter 5 of such title, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105.

Section 4 would amend Section 205(b) of the Social Security Act to specify that a request for a hearing under title II may not be filed later than sixty days after an individual receives notice of an adverse decision with respect to his rights to benefits. Under existing law, such requests may be filed within such time period as the Secretary specifies by regulation but the period cannot be less than six months after notice is mailed.

Section 5 would provide that the provisions of the bill take effect on enactment, except that the provisions which would reduce the period in which a request for a hearing may be filed would be effective only with respect to an adverse decision notice of which is received on or after the date of enactment.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

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(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the

Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such decision must be filed within [such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to] *sixty days after notice of such decision is received by* the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissable under rules of evidence applicable to court procedure.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

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PART B—PROCEDURAL AND GENERAL PROVISIONS PAYMENTS AND PROCEDURES

PAYMENT OF BENEFITS

SEC. 1631. (a)(1) * * *

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Hearings and Review

(c)(1) *The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title.* The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within [thirty] *sixty* days after notice of such determination is received, *and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.*

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves [the existence of] a disability

(within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205[; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court].

Procedures; Prohibitions of Assignments; Representation of Claimants

(d)(1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

[(2) To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.]

[(3)](2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

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Calendar No. 529

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94–550

SOCIAL SECURITY APPEALS AND ADMINISTRATION

DECEMBER 12, 1975.—Ordered to be printed

MR. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 10727]

The Committee on Finance, to which was referred the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House of Representatives made certain modifications in the provisions of the Social Security Act dealing with the appeals process under programs administered by the Social Security Administration. The committee modified the effective date of one of the provisions in the House bill and added to the bill a number of amendments as described below.

SOCIAL SECURITY HEARINGS AND APPEALS

The programs administered by the Social Security Administration presently have a huge backlog of some 103,000 cases awaiting a hearing. The committee bill would attempt to alleviate this problem by making certain changes in the social security hearings and appeals processes. The bill would make the provisions of law governing hearings and judicial review under the supplemental security income (SSI) program virtually identical to those of the social security cash benefit and medicare programs. It would permit the Social Security Administration to use existing SSI hearing examiners to also hear

social security and medicare cases between now and the end of 1978. In addition, the bill would change the time in which a person could request a hearing after a claim had been disallowed. For both social security cases and SSI cases, the time would be 60 days—an increase from 30 days for SSI claims and a decrease from 6 months for social security claims. The bill as passed by the House and as approved by the committee is effective on enactment except that the effective date of the reduction in the time for filing a request for hearings in social security cases would be March 1, 1976.

Policemen and Firemen in West Virginia

The Social Security Amendments of 1972 included a provision which allowed the State of West Virginia to modify its social security coverage agreements so as to provide social security protection to certain policemen and firemen who had erroneously paid social security taxes in the belief that they were covered. Under the 1972 amendments, the State of West Virginia had to amend its agreement with the Social Security Administration before 1974. The State, however, has not made the necessary amendment in its agreement, and the committee bill provides an extension through 1977 of the time in which the agreement may be changed.

Deposit of Social Security Contributions by State and Local Governments

Under the committee bill, the Secretary of Health, Education, and Welfare would be required to give notice at least 18 months in advance of any changes he proposes to make in the way in which social security contributions are paid by State and local governments. This would assure that States would be given ample leadtime to implement any changes and would also give Congress an opportunity to review any changes which the Secretary might propose.

Annual Reporting of Social Security Wages

The committee bill includes a provision which is designed to reduce the tax reporting burdens of the nation's employers. Under the provision, the Secretaries of the Treasury and of Health, Education, and Welfare would be given the authority needed to exchange information so that social security reports of individual earnings could be made once each year rather than once each quarter.

The provision would not affect the responsibility of employers for collection and payment of social security taxes nor would it change the requirements as to when these payments are due. It would not have any effect on the way in which State and local Governments pay or report social security contributions to the Social Security Administration. Payments by both private employers and State and local Government units would continue to be made in the same way that they are made under existing law.

II. GENERAL EXPLANATION OF THE BILL

A. Social Security Hearings and Appeals

NEED FOR LEGISLATION

The programs administered by the Social Security Administration now have a huge backlog of some 103,000 cases awaiting hearing. Half of all hearings take more than seven months to process, and the average processing time from initial application to hearing decision is some 20 months. A major barrier to reducing the backlog is the inability to use the hearing examiners appointed for the supplemental security income program for cases involving eligibility under Title II of the Social Security Act. Although the major factor in both SSI and title II hearings is the title II definition of disability, the Civil Service Commission overruled the Department of Health, Education, and Welfare and refused to allow that agency to employ administrative law judges to conduct SSI hearings.

Within recent months the Social Security Administration Bureau of Hearings and Appeals has made significant gains in increasing the productivity of administrative law judges (ALJs) with the result that the current case backlog is being reduced by 1,000 cases a month. If the authority in this bill is enacted it has been estimated that the hearing backlog will be reduced by 3,000 a month so that in 18 months cases can be adjudicated within 90 days.

While the committee thus expects that this bill will significantly alleviate the current crisis situation with respect to social security hearings, it is aware that suggestions have been made for more basic structural changes in the hearings procedures and the administration of the disability programs. The committee notes that the report of the House of Representatives on this bill indicates an intent to undertake comprehensive social security legislation in 1976 in connection with which such changes could be considered. The House report also recommends that the Social Security Administration authorize the Center for Administrative Justice to make a study of the social security appeals procedures and make recommendations for any structural changes relating to improving both the speed and quality of social security adjudications. This study would address the issue of whether the current appeals system under the Administrative Procedure Act (APA) is in the public interest together with such subjects as the appropriate qualifications, method of appointment, and position and grade classification of social security ALJs.

CONFORMING SSI AND SOCIAL SECURITY APPEALS PROCEDURES

(Section 1 of the Bill)

The first provision of the bill would amend Section 1631(c) of the Social Security Act to provide the same rights to hearing and administrative and judicial review with respect to claims under title XVI (Supplemental Security Income) of the Act as apply to title II

(social security) and title XVIII (medicare) claims under section 205(b) and 205(g) of the Act. This is necessary to override an interpretation of the Civil Service Commission that the Administrative Procedure Act was not applicable to SSI hearings and which required the appointment of non-APA hearings officers who could not hear social security and medicare cases. This action greatly exacerbated the current hearing crisis and the validity of SSI hearings has been challenged in the courts as second class justice. The committee bill will put this matter to rest by clearly providing on-the-record administrative hearings and judicial review of a parallel nature for social security, SSI, and medicare claimants.

The principal modifications to section 1631(c), which now provides general authority to the Secretary of Health, Education, and Welfare to conduct hearings on SSI appeals, would be:

(1) the specific requirement that decisions after a hearing must be on the basis of evidence adduced at the hearing;

(2) an increase in the period during which requests for review must be filed from 30 days to 60 days;

(3) the addition of specific authority for the Secretary to hold hearings and make findings of fact, administer oaths, examine witnesses and receive evidence; and authority to receive evidence at a hearing even though inadmissible under the rules of evidence applicable to court procedure;

(4) to make the final determinations of the Secretary subject to the "substantial evidence rule" upon judicial review by eliminating language now in section 1631(c)(3) which provides that the determinations of the Secretary "as to any fact shall be final and conclusive and not subject to review by any court".

The principal effect of this last modification is to apply the same rules of judicial review to title XVI cases as apply to title II cases. By removing this language from title XVI, findings of fact of the Secretary in SSI cases, if supported by substantial evidence, shall be conclusive as are such findings under title II. The committee believes that both programs should be under the "substantial evidence rule", but that this should not be interpreted by the courts as a license to vary from strict adherence to its principles. With over 4,000 social security disability cases now pending in the United States District Courts, and the possibility of a similar caseload developing in the SSI program, when its appeals are fully felt, making *de novo* factual determinations at the judicial level could result in very serious problems for the federal judiciary and the social security program.

REPEAL OF SPECIAL APPOINTMENT AUTHORITY

(Section 2 of the Bill)

The committee bill would repeal section 1631(d)(2) of the Social Security Act.

This is the section of the law under which, pursuant to Civil Service Commission interpretation, non-APA hearing examiners have been appointed. The continuation of this authority is inappropriate inasmuch as title XVI cases in the future will require APA hearing officers. The committee believes that an adequate supply of APA

hearing officers can be obtained from the current pool of SSI hearing examiners and Black Lung ALJs who meet, or will meet, the requirements for regular appointments and through the on-going recruitment by the Civil Service Commission of ALJs in the private and governmental sectors.

USE OF SSI HEARING EXAMINERS FOR SOCIAL SECURITY AND MEDICARE CASES

(Section 3 of the Bill)

The committee bill also grants authority for those SSI hearing examiners (who have been appointed under section 1631(d)(2) to hear cases under titles II, XVI, and XVIII until December 31, 1978 as temporary administrative law judges if the Secretary of HEW finds it will promote the achievement of the objectives of these titles. It is the committee's understanding that the Secretary will make this finding as to all SSI hearing examiners who have been appointed. The committee also understands that now virtually all the temporary Black Lung judges hold SSI hearing examiner appointments and this would provide the Bureau of Hearings and Appeals the 200 judges it needs to reduce the backlog. Furthermore, by the end of 1978, all SSI examiners will have acquired sufficient adjudicative experience to meet the experience requirement for appointment as regular ALJs. They would, as they met the experience requirement, be afforded the opportunity to be placed on the register for regular ALJ appointment on a merit basis under the regular Civil Service procedures.

It is hoped that these requirements and procedures will be applied in a manner to effectively serve the needs of the Social Security Act programs. The performance of the Civil Service Commission Office of Administrative Law Judges in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA does not reflect the will of Congress.

The Office of Administrative Law Judges should be mindful of its ministerial responsibilities in supplying registers from which adequate numbers of ALJs can be hired by HEW to adjudicate social security claims. There are indications that in the past these registers have not been supplied with the speed and with the number of candidates thereon which HEW needed to get better control over the hearings backlog. In evaluating current SSI hearings examiners for regular ALJ appointments great weight should be given to experience in actually adjudicating social security and Black Lung cases and roadblocks should not be created through unduly lengthy and bureaucratic appointment procedures.

To avoid any possible misinterpretation, the bill specifically provides that the temporary hearing officers authorized to conduct hearings under the bill would be subject to all the provisions of the Administrative Procedure Act that assure independence from agency control. These provisions would include: Subchapter II of chapter 5 of title 5 of the United States Code (the substantive provisions relating to APA adjudications); the second sentence of section 3105, of title 5 U.S.C. (assignment of cases in rotation and the prohibition of assignment to duties inconsistent with their responsibilities as hear-

ing officers); and the deeming of them as hearing examiners appointed under section 3105 so that, among other things, they would be exempt from agency performance rating requirements (5 U.S.C. 4301(2)(E)) and agency determination of performance acceptability for in-grade increases (5 U.S.C. 5335(a)(3)(B)) and making Civil Service responsible for determining their pay levels (5 U.S.C. 5362), removal for cause (5 U.S.C. 7521), and general administration (5 U.S.C. 1305). The committee is unaware of any prejudicial "agency control" exercised by HEW under the parallel provisions it has established for SSI hearing examiners. However, the specific application of these provisions of the APA, together with the provisions of the bill applying the same procedural safeguards to review proceedings under title XVI as apply under title II, should eliminate the possibility of the courts determining that SSI review procedures do not comply with the Administrative Procedure Act or due process.

Moreover, the specific enumeration of these provisions of the APA as applicable to the temporary ALJs should not be interpreted to make these adversary proceedings or otherwise "judicialize" procedures under title II, XVI, and XVIII. The enumeration of these provisions also should in no way suggest that they are not applicable to the regular Social Security ALJs. The committee and the Department of HEW consistently over the years have declared that the language in title II (and under the provisions of this bill, title XVI) of the Social Security Act call for "on-the-record" hearings which invoke the provisions of the Administrative Procedure Act.

Although the bill is silent on the grade level of temporary Administrative Law Judges, the committee notes that the report on this legislation received from the Department indicates agreement with the view expressed in the report of the House of Representatives on the bill that a grade level of GS–14 would be appropriate.

REDUCTION OF APPEAL PERIOD FOR SOCIAL SECURITY CLAIMS

(Section 4 of the Bill)

The Committee bill would reduce the period within which social security and medicare appeals may be taken at both the reconsideration and hearing level from six months to 60 days.

The committee believes that a 6-month time period is unnecessarily long for a claimant to appeal a title II or title XVIII decision on his claim. In fact, because a mandatory reconsideration has been adopted administratively under this authority, a double period may result. An individual whose claim has been initially denied has a full six months to decide whether to request a reconsideration and then another 6 months to decide whether to appeal to an administrative law judge.

More than 65 percent of the hearings requested are filed within 60 days after the claimants receive notification that their reconsideration had not resulted in the decision being overturned. If the time limit is reduced to 60 days, there may be a decrease in the number of hearing requests filed. Those individuals who do not file for review within 60 days may file a new application for benefits on the basis of new evidence or changed condition which in most instances can be adjudicated more speedily at the initial determination level. Also, reducing

the time limit would result in a reduction in administrative costs and, perhaps most importantly would be beneficial in that less case development would be needed at the hearing level. The need for additional development has played a major role in delaying decisions in appealed cases. Often hearings filed in the 4th, 5th, or 6th months following the reconsideration determination are virtually new cases and call for extensive medical and vocational development which takes the ALJ away from his primary role of deciding cases.

In order to assure that the rights of individuals are not adversely affected, the committee has provided that this change not be effective until March 1, 1976. This will allow the Social Security Administration time to advise social security applicants of the shortened length of time for filing an appeal.

B. West Virginia Policemen and Firemen

(Section 6 of the Bill)

The committee has been informed that certain policemen and firemen in West Virginia have been paying social security contributions but that the Social Security Administration ruled (and the courts have agreed) that the law does not provide for this coverage. Under the law, policemen in West Virginia are not allowed coverage if they are also covered under a State or local retirement program and firemen under a State or local retirement program are not allowed coverage unless certain specified conditions are met. The laws of West Virginia require certain local governments to provide a retirement program for their employees, including policemen and firemen, but some of the local governments have not provided the programs and instead have relied on social security coverage to provide retirement, disability, and survivor insurance for their employees. Because this coverage for policemen and firemen, but not for other employees has been determined to be in conflict with the present law, the committee bill includes a provision which will permit the State of West Virginia to modify its social security coverage agreements to provide retroactive coverage for the policemen and firemen who have paid social security contributions in the past and to continue this coverage in the future for those police and fire departments affected.

A similar provision was included in the Social Security Amendments of 1972 but the State did not make the necessary modifications in its social security coverage agreements within the time limits specified in that legislation. The present bill will extend the time when such a change may be made to 1977.

C. Deposit of Social Security Contributions by State and Local Governments

(Section 7 of the Bill)

Employees of State and local governments are not mandatorily covered under the social security program. Under legislation enacted in 1950, however, States are permitted on a voluntary basis to enter into agreements with the Department of Health, Education, and Welfare for the coverage under the program of State and local employees.

The extent of such coverage varies from State to State and the agreements under which each State covers certain of its employees and the employees of political subdivisions are quite complex. Under these coverage agreements, States are required to pay to the Social Security Administration contributions which are the equivalent of the social security taxes which the Internal Revenue Service collects from private employers.

The Social Security Act provides that, insofar as practicable, the Social Security Administration should require States to deposit these contributions in a manner consistent with the requirements for depositing social security taxes imposed on private employers. Up to the present, however, the requirements imposed upon the States with respect to the frequency of deposit have been quite different from the requirements imposed upon private employers. Large private employers are required to deposit social security taxes withheld as often as weekly, and moderate-sized employers must make these deposits monthly. Quarterly deposits are permitted for employers with quite small payrolls. In the case of State and local Government employees, however, the present regulations of the Department of Health, Education, and Welfare require that deposits be made by the middle of the second month after the end of each quarter.

The Social Security Administration has indicated that it is considering the promulgation of a regulation which would require the States to deposit social security contributions more frequently. The agency believes that such a change would result in significantly higher interest earnings for the social security trust funds and that the change would be consistent with the provision of law requiring that the State procedures be comparable with the procedures used by private employers. State social security administrators have expressed doubts that such a change is, in fact, practicable since many local governments have relatively unsophisticated accounting arrangements. Moreover, the argument is made that such a change represents a unilateral revocation of the voluntary agreements under which the State coverage was established many years ago.

The Committee is advised that the Social Security Administration and the State social security administrators are jointly undertaking a study designed to develop more adequate information as to the actual implications of a change in existing deposit procedures. To assure that this information will be available before any change is made and to assure that no change in deposit procedures will be abruptly instituted, the committee bill would prohibit the Department of Health, Education, and Welfare from making any significant changes in the deposit requirements without allowing lead time of at least 18 months from the time of publication in the Federal Register of the final regulations making such a change.

The committee believes that this amendment will permit the Department to develop whatever proposal with respect to the deposit of State and local contributions it may feel is justified on the basis of information obtained from the current study while at the same time assuring that Congress will have adequate notice of any such proposed change and will be able to enact further legislation as may appear appropriate.

D. Annual Reporting of Social Security Wages

(Section 8 of the Bill)

The committee added a provision to the House-passed bill which is designed to reduce the tax reporting burden of the Nation's employers. Under the committee provision, the Secretaries of the Treasury and of Health, Education, and Welfare would be provided with the authority they need to exchange information on a basis which would make it possible to change social security tax reporting from a quarterly basis to an annual basis. The committee provision originated in the recommendations of several Governmental study groups and its adoption would conclude approximately two decades of study and negotiation between the two departments involved.

Under existing Treasury department regulations, employers are required to submit quarterly reports of the wages paid to their employees which are subject to social security taxes. These reports, on Treasury Form 941–A, must list each employee by name, social security account number, and total wages paid to the employee with respect to which social security taxes are payable. The preparation and filing of this quarterly report involves considerable effort and expense on the part of employers particularly in the case of small and medium-sized companies which do not have the advantage of computerized payroll systems. An April 17, 1973 report issued by the Select Committee on Small Business stated that its Subcommittee on Government Regulation had found studies indicating that the annual cost to small employers of submitting this form might total as much as $235 million (Senate Report No. 93–125, p. 49).

The committee provision would make possible the elimination of quarterly reports by changing certain technical requirements of the social security program which currently depend on data from the Form 941–A and by providing the Internal Revenue Service and the Social Security Administration authority which would enable them to enter into an agreement for cooperative processing of a revised annual wage reporting form (i.e. Form W–2) in a manner which will most effectively and efficiently provide each agency with the information it requires. Thus, in place of the present requirement that each employer submit 5 reports per year with respect to each employee (4 quarterly reports on Form 941–A and 1 annual report on Form W–2), the committee provision makes possible a revision in Treasury Department regulations to permit employers to file a single consolidated annual wage report for each employee which will show both his total earnings for the year and the quarterly breakdown of his social security earnings.

The present Form 941–A provides for wage information used by the Social Security Administration as the source of data for computing the automatic increases in the amount of annual earnings subject to social security taxes (the social security "wage base") and in the amount of annual earnings which a beneficiary may have without any reduction in his social security benefits (the "exempt amount.") Under existing law, whenever an increase in the cost of living triggers an automatic

social security benefit increase, the Secretary of Health, Education, and Welfare is required to promulgate regulations increasing the wage base and the exempt amount.

Under current law these increases are based on the percentage rise in the average amount of taxable wages up to the first quarter of the year in which the determination of the amount of the increase is made, and the increases become effective as of the start of the following year. If employee wages are reported annually rather than quarterly, however, the necessary data to compute the increase in wage base and exempt amount would not be available until well after the beginning of the year in which the increases are to be effective. The committee provision, therefore, moves back by one year the base period to be used for determining the amount of increases in taxable wages so that the Secretary of Health, Education, and Welfare will have sufficient time to make his determinations on the basis of an annual wage report. (However, no change is made in the benefit increase provisions of present law.) Thus, for example, the increase in the wage base and exempt amount which is to be effective as of January 1, 1977 would be computed according to the growth rate in average taxable wages from the first quarter of 1974 to the first quarter of 1975 rather than according to the growth rate from the first quarter of 1975 to the first quarter of 1976.

Current law bases the automatic increases in the wage base and exempt amount on the rise in average taxable wages from the first quarter of one year to the first quarter of the next year rather than on the annual increase in wage levels generally because the Social Security Administration does not now receive the information necessary to make a determination based on average annual wages in all employment. When the revised reporting regulations made possible by the committee provision are implemented, this information will become available. Accordingly, the committee bill provides that, starting in 1978, determinations as to the amount of future automatic increases in the annual amount of earnings subject to social security taxes and in the amount of annual earnings a beneficiary can have without reduction in benefits will be based on the growth from year to year in average annual wages in all employment rather than on the growth of the amount of wages subject to social security taxes in the first quarter of each year. As a practical matter, it is estimated that there will be negligible impact on the way in which the automatic increase provisions will operate, since the annual rate of growth is approximately the same for average first quarter taxable wages, average annual wages in employment covered by social security, and average annual wages in the national economy.

The committee provision would not affect the responsibility of employers for the collection and payment of social security taxes nor would it alter in any way the requirements as to the dates on which payments of these taxes are due. The provisison would make no change in the amount of work required in order to qualify for social security benefits and no change would be made in the way benefits are computed. Moreover, it would not have any impact on the financial status of the social security program.

In addition, the committee amendment provides that the amendment would have no effect on the way in which State and local governments report earnings to the Social Security Administration. The situation with respect to State and local government employment covered by social security is different than the situation with respect to private employment, and the procedures for reporting wages are governed by agreements between the States and the Secretary of Health, Education, and Welfare. A wide variety of patterns exists with respect to the types of State and local employment which are or are not covered under a multiplicity of agreements between the States and the Federal government and, in turn, between the States and local governmental entities. The existing reporting procedures, therefore, serve not only the requirements of the Social Security Administration but also the requirements of the State agencies which are responsible for coordinating the activities with respect to social security of the various governmental employers within each State. Accordingly, the Committee bill would not authorize the Secretary of Health, Education, and Welfare to modify the regulations and procedures with respect to the reporting of social security wages in the case of State and local employees except to the extent that modifications may be agreed upon between him and the States involved.

III. COST OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out the bill.

The committee estimates that this legislation would have virtually no impact on Federal expenditures. The provision authorizing certain coverage for West Virginia policemen and firemen could have a negligible impact on social security benefit payments. The provisions relating to the social security hearing process, according to estimates received from the Department of Health, Education, and Welfare, would not affect benefit costs but could reduce administrative expenses by $16.3 million in fiscal years 1977 through 1981. The other provisions of the bill have no cost impact.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill. The bill was ordered reported by voice vote.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND

SEC. 201. (a) * * *

* * * * * * *

(g) (1) (A) [There are authorized to be made available for expenditure, out of any or all of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII), such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. During each fiscal year or after the close of such fiscal year (or at both times), the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this title, title XVI and title XVIII during the appropriate part or all of such fiscal year in order to determine the portion of such costs which should be borne by each of the Trust Funds and (with respect to title XVI) by the general revenues of the United States and shall certify to the Managing Trustee the amount, if any, which should be transferred among such Trust Funds in order to assure that (after appropriations made pursuant to section 1601, and repayment to the Trust Funds from amounts so appropriated) each of the Trust Funds and the general revenues of the United States bears its proper share of the costs incurred during such fiscal year for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. The Managing Trustee is authorized and directed to transfer any such amount (determined under the preceding sentence) among such Trust Funds in accordance with any certification so made.

[(B) The Managing Trustee is directed to pay from the Trust Funds into the Treasury the amounts estimated by him which will be expended, out of moneys appropriated from the general funds in the Treasury, during each calendar quarter by the Treasury Department for the part of the administration of this title and title XVIII for which the Treasury Department is responsible and for the administration of chapters 2 and 21 of the Internal Revenue Code of 1954. Such payments shall be covered into the Treasury as repayment to the account for reimbursement of expenses incurred in connection with such administration of this title and title XVIII and chapters 2 and 21 of the Internal Revenue Code of 1954.]

The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less.

(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust

Funds, and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.".

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes imposed under section 3101(a) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.

* * * * * * *

REDUCTION OF INSURANCE BENEFITS

MAXIMUM BENEFITS

SEC. 203. (a) * * *

* * * * * * *

(f) For purposes of subsection (b)—

(1) * * *

* * * * * * *

(8)(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) The exempt amount for each month of a particular taxable year shall be whichever of the following is the larger—

(i) the exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the [taxable] wages of all employees as reported to the Secretary *of the Treasury* for [the first calendar quarter of] the calendar year *preceding the calendar year* in which the determination under subparagraph (A) was made to (II) the average of the [taxable] wages of all employees as reported to the Secretary *of the Treasury* for the [first calendar quarter of 1973] *calendar year 1973*, or, if later, the [first calendar quarter of] *calendar year preceding* the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under section 230(a), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

For purpose of this clause (ii), the average of the wages for the calendar year 1977 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

* * * * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

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(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such decision must be filed within [such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed, may not be less than six months after notice of such decision is mailed to] *sixty days after notice of such decision is received by* the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissable under rules of evidence applicable to the court procedure.

* * * * * * *

REDUCTION OF BENEFITS BASED ON DISABILITY ON ACCOUNT OF RECEIPT OF WORKMEN'S COMPENSATION

SEC. 224. (a) * * *

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(f) (1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 223 and any benefits under section 202 based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Secretary shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this title on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages

were reported to the Secretary for the first calendar quarter of the calendar year *before the calendar year* in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year *before the calendar year* in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of $1 shall be reduced to the next lower multiple of $1.

* * * * * * *

ADJUSTMENT OF THE CONTRIBUTION AND BENEFIT BASE

SEC. 230. (a) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) The amount of such contribution and benefit base shall be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

(1) the contribution and benefit base which was in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made, and

(2) the ratio of (A) the average of the [taxable] wages of all employees as reported to the Secretary *of the Treasury* for the [first calendar quarter of the] calendar year *preceding the calendar year* in which the determination under subsection (a) with respect to such particular calendar year was made to [the latest of] (B) the average of the [taxable] wages of all employees as reported to the Secretary *of the Treasury* [for the first calendar quarter of 1973 or the first calendar quarter of] *for the calendar year 1973 or, if later, the calendar year preceding* the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).

with such product, if not a multiple of $300, being rounded to the next higher multiple of $300 where such product is a multiple of $150 but not of $300 and to the nearest multiple of $300 in any other case.

For purposes of this subsection, the average of the wages for the calendar year 1977 (or any prior calendar year) shall in the case of determinations made under subsection (a) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.

* * * * * * *

PROCESSING OF TAX DATA

SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

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PART B—PROCEDURAL AND GENERAL PROVISIONS PAYMENTS AND PROCEDURES

PAYMENT OF BENEFITS

SEC. 1631. (a)(1) * * *

* * * * * * *

Hearings and Review

(c)(1) *The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title.* The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within [thirty] *sixty* days after notice of such determination is received, *and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may*

administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissable under the rules of evidence applicable to court procedure.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves [the existence of] a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205 [; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court].

Procedures; Prohibitions of Assignments; Representation of Claimants

(d)(1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

[(2) To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.]

[(3)](*2*) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title. and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge

or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

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INTERNAL REVENUE CODE OF 1954

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SUBTITLE F—PROCEDURE AND ADMINISTRATION

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CHAPTER 61—INFORMATION AND RETURNS

* * * * * * *

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

* * * * * * *

SEC. 6103. PUBLICITY OF RETURNS AND DISCLOSURE OF INFORMATION AS TO PERSONS FILING INCOME TAX RETURNS

(a) * * *

* * * * * * *

(f) * * *

(g) *DISCLOSURE OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program.*

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H. R. 10727

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

An Act

To amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1631(c) of the Social Security Act is amended to read as follows:

"HEARINGS AND REVIEW

"(c)(1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

"(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205.".

SEC. 2. Section 1631(d) of the Social Security Act is amended by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

SEC. 3. The persons appointed under section 1631(d)(2) of the Social Security Act (as in effect prior to the enactment of this Act) to serve as hearing examiners in hearings under section 1631(c) of such Act may conduct hearings under titles II, XVI, and XVIII of the Social Security Act if the Secretary of Health, Education, and Welfare finds it will promote the achievement of the objectives of such titles, notwithstanding the fact that their appointments were made without meeting the requirements for hearing examiners appointed under section 3105 of title 5, United States Code; but their appointments shall terminate not later than at the close of the period ending December 31, 1978, and during that period they shall be deemed

to be hearing examiners appointed under such section 3105 and subject as such to subchapter II of chapter 5 of title 5, United States Code, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105.

SEC. 4. The third sentence of section 205(b) of the Social Security Act is amended to read as follows: "Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request.".

SEC. 5. The amendments made by the first two sections of this Act, and the provisions of section 3, shall take effect on the date of the enactment of this Act. The amendment made by section 4 of this Act shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act, to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act.

SEC. 6. (a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

(1) all services performed by such individual, in any policemen's or firemen's position to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety

days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

SEC. 7. Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare, after the date of enactment of this Act, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 218(e) of the Social Security Act.

SEC. 8. (a) This section may be cited as the "Combined Old-Age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1975".

(b) Title II of the Social Security Act is amended by adding after section 231 the following section:

"PROCESSING OF TAX DATA

"SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.".

(c) Section 232 of the Social Security Act, as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1977.

(d)(1) Section 201(g)(1) of such Act is amended to read as follows:

"(g)(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

"(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

"(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

"(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clauses (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.".

(2) Subsection (g) of such section is further amended by adding at the end thereof the following new paragraph:

"(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.".

(e) Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding $100 per day, and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(f) The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Security Act before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act with respect to the carrying out of the functions of the Department of Health, Education, and Welfare specified in section 232 of such Act, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(g) Section 6103 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) DISCLOSURE OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program.".

(h)(1) Section 230(b)(2) of the Social Security Act is amended to read as follows:

"(2) the ratio of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) with respect to such particular calendar

year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a),".

(2) Section 230(b) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subsection (a) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year."

(i)(1) Section 203(f)(8)(B)(ii) of the Social Security Act as amended—

(A) in clause (I) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year", and inserting in lieu thereof "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year", and

(B) in clause (II) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year", and inserting in lieu thereof "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year".

(2) Section 203(f)(8)(B)(ii) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this clause (ii), the average of the wages for the calendar year 1978 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1979, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.".

(j) Section 224(f)(2) of the Social Security Act is amended, in the first sentence thereof, by—

(1) inserting "before the calendar year" immediately after "calendar year", and

(2) inserting "before the calendar year" immediately after "taxable year".

(k) Notwithstanding the provisions of section 218(i) of the Social Security Act, nothing contained in the amendments made by the preceding provisions of this section shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218(i), substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act.

SEC. 9. Section 1612(b)(2) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972) is amended (1) by inserting (A) immediately after (2), and (2) by adding at the end thereof the following new subparagraph:

"(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.".

SEC. 10. (a) Section 7652(b)(3) of the Internal Revenue Code of 1954 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Beginning with the calendar quarter ending September 30, 1975, and quarterly thereafter, the Secretary or his delegate shall determine the amount of all taxes imposed by, and collected during the quarter under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.";

(2) by amending the first sentence of subparagraph (A) to read as follows: "There shall be transferred and paid over, as soon as practicable after the close of the quarter, to the Government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the Government of the Virgin Islands during the quarter, as certified by the Government Comptroller of the Virgin Islands."; and

(3) by amending the sentence immediately following subparagraph (C) by striking out "at the beginning" and inserting in lieu thereof the following: "with respect to the four calendar quarters immediately preceding the beginning".

(b) The amendments made by paragraphs (1) and (2) of subsection (a) shall apply with respect to all taxes imposed by, and collected after June 30, 1975, under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

H.J. Res. 749	H.R. 8304	H.R. 11184
H.R. 4016	H.R. 9968	S.J. Res. 157
H.R. 4287	H.R. 10035	S. 95
H.R. 4573	H.R. 10284	S. 322
H.R. 5900	H.R. 10355	S. 1469
H.R. 6673	H.R. 10727	S. 2327

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.