

**SOCIAL SECURITY DOMESTIC EMPLOYMENT
REFORM ACT OF 1994**

H.R. 4278

**PUBLIC LAW 103-387
103RD CONGRESS**

**REPORTS, BILLS,
DEBATES, AND ACT**

SOCIAL SECURITY ADMINISTRATION

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REFORM ACT OF 1994**

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DEBATES, AND ACT**

Social Security Administration

**Office of the Deputy Commissioner for
Legislation and Congressional Affairs**

PREFACE

This 1-volume compilation contains historical documents pertaining to P.L. 103-387, the "Social Security Domestic Employment Reform Act of 1994." The book contains congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and listings of relevant reference materials.

Pertinent documents include:

- o Differing versions of key bills
- o Committee reports
- o Excerpts from the Congressional Record
- o The Public Law

This history is prepared by the Office of the Deputy Commissioner for Legislation and Congressional Affairs and is designed to serve as a helpful resource tool for those charged with interpreting laws administered by the Social Security Administration.

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103^D CONGRESS
2^D SESSION

H. R. 4278

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1994

Mr. JACOBS (for himself, Mrs. KENNELLY, Mr. BUNNING, Mr. HOUGHTON, and Mrs. MEEK) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Social Security Act
5 Amendments of 1994".

1 **SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON**
2 **DOMESTIC SERVICES.**

3 (a) **COORDINATION OF COLLECTION OF DOMESTIC**
4 **SERVICE EMPLOYMENT WITH COLLECTION OF INCOME**
5 **TAXES.—**

6 (1) **IN GENERAL.**—Chapter 25 of the Internal
7 Revenue Code of 1986 (relating to general provi-
8 sions relating to employment taxes) is amended by
9 adding at the end thereof the following new section:
10 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**
11 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**
12 **TION OF INCOME TAXES.**

13 **“(a) GENERAL RULE.**—Except as otherwise provided
14 in this section—

15 “(1) returns with respect to domestic service
16 employment taxes shall be made on a calendar year
17 basis,

18 “(2) any such return for any calendar year
19 shall be filed on or before the 15th day of the fourth
20 month following the close of the employer’s taxable
21 year which begins in such calendar year, and

22 “(3) no requirement to make deposits (or to
23 pay installments under section 6157) shall apply
24 with respect to such taxes.

25 **“(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-**
26 **JECT TO ESTIMATED TAX PROVISIONS.—**

1 “(1) IN GENERAL.—Solely for purposes of sec-
2 tion 6654, domestic service employment taxes im-
3 posed with respect to any calendar year shall be
4 treated as a tax imposed by chapter 2 for the tax-
5 able year of the employer which begins in such cal-
6 endar year.

7 “(2) ANNUALIZATION.—Under regulations pre-
8 scribed by the Secretary, appropriate adjustments
9 shall be made in the application of section
10 6654(d)(2) in respect of the amount treated as tax
11 under paragraph (1).

12 “(3) TRANSITIONAL RULE.—For purposes of
13 applying section 6654 to a taxable year beginning in
14 1994, the amount referred to in clause (ii) of section
15 6654(d)(1)(B) shall be increased by 90 percent of
16 the amount treated as tax under paragraph (1) for
17 such taxable year.

18 “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—
19 For purposes of this section, the term ‘domestic service
20 employment taxes’ means—

21 “(1) any taxes imposed by chapter 21 or 23 on
22 remuneration paid for domestic service in a private
23 home of the employer, and

1 “(2) any amount withheld from such remunera-
2 tion pursuant to an agreement under section
3 3402(p).

4 For purposes of this subsection, the term ‘domestic service
5 in a private home of the employer’ does not include service
6 described in section 3121(g)(5).

7 “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR
8 OTHER EMPLOYMENT TAXES.—To the extent provided in
9 regulations prescribed by the Secretary, this section shall
10 not apply to any employer for any calendar year if such
11 employer is liable for any tax under this subtitle with re-
12 spect to remuneration for services other than domestic
13 service in a private home of the employer.

14 “(e) GENERAL REGULATORY AUTHORITY.—The Sec-
15 retary shall prescribe such regulations as may be nec-
16 essary or appropriate to carry out the purposes of this
17 section. Such regulations may treat domestic service em-
18 ployment taxes as taxes imposed by chapter 1 for purposes
19 of coordinating the assessment and collection of such em-
20 ployment taxes with the assessment and collection of do-
21 mestic employers’ income taxes.

22 “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO
23 COLLECT STATE UNEMPLOYMENT TAXES.—

24 “(1) IN GENERAL.—The Secretary is hereby
25 authorized to enter into an agreement with any

1 State to collect, as the agent of such State, such
2 State's unemployment taxes imposed on remunera-
3 tion paid for domestic service in a private home of
4 the employer. Any taxes to be collected by the Sec-
5 retary pursuant to such an agreement shall be treat-
6 ed as domestic service employment taxes for pur-
7 poses of this section.

8 “(2) TRANSFERS TO STATE ACCOUNT.—Any
9 amount collected under an agreement referred to in
10 paragraph (1) shall be transferred by the Secretary
11 to the account of the State in the Unemployment
12 Trust Fund.

13 “(3) SUBTITLE F MADE APPLICABLE.—For
14 purposes of subtitle F, any amount required to be
15 collected under an agreement under paragraph (1)
16 shall be treated as a tax imposed by chapter 23.

17 “(4) STATE.—For purposes of this subsection,
18 the term ‘State’ has the meaning given such term by
19 section 3306(j)(1).”

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 25 of such Code is amended by
22 adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes.”

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to remuneration paid

1 in calendar years beginning after December 31,
2 1994.

3 (4) EXPANDED INFORMATION TO EMPLOY-
4 ERS.—The Secretary of the Treasury or his delegate
5 shall prepare and make available information on the
6 Federal tax obligations of employers with respect to
7 employees performing domestic service in a private
8 home of the employer. Such information shall also
9 include a statement that such employers may have
10 obligations with respect to such employees under
11 State laws relating to unemployment insurance and
12 workers compensation.

13 (b) THRESHOLD REQUIREMENT FOR SOCIAL SECUR-
14 RITY TAXES.—

15 (1) AMENDMENTS OF INTERNAL REVENUE
16 CODE.—

17 (A) Subparagraph (B) of section
18 3121(a)(7) of the Internal Revenue Code of
19 1986 (defining wages) is amended to read as
20 follows:

21 “(B) cash remuneration paid by an em-
22 ployer in any calendar year to an employee for
23 domestic service in a private home of the em-
24 ployer (within the meaning of subsection (y)), if
25 the cash remuneration paid in such year by the

1 employer to the employee for such service is less
2 than the applicable dollar threshold (as defined
3 in subsection (y)) for such year;”.

4 (B) Section 3121 of such Code is amended
5 by adding at the end thereof the following new
6 subsection:

7 “(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For
8 purposes of subsection (a)(7)(B)—

9 “(1) EXCLUSION FOR CERTAIN FARM SERV-
10 ICE.—The term ‘domestic service in a private home
11 of the employer’ does not include service described
12 in subsection (g)(5).

13 “(2) APPLICABLE DOLLAR THRESHOLD.—The
14 term ‘applicable dollar threshold’ means \$1,250. In
15 the case of calendar years after 1995, the Secretary
16 of Health and Human Services shall adjust such
17 \$1,250 amount at the same time and in the same
18 manner as under section 215(a)(1)(B)(ii) of the So-
19 cial Security Act with respect to the amounts re-
20 ferred to in section 215(a)(1)(B)(i) of such Act, ex-
21 cept that, for purposes of this paragraph, 1993 shall
22 be substituted for the calendar year referred to in
23 section 215(a)(1)(B)(ii)(II) of such Act. If the
24 amount determined under the preceding sentence is

1 not a multiple of \$50, such amount shall be rounded
2 to the nearest multiple of \$50.”

3 (C) The second sentence of section 3102(a)
4 of such Code is amended—

5 (i) by striking “calendar quarter”
6 each place it appears and inserting “cal-
7 endar year”, and

8 (ii) by striking “\$50” and inserting
9 “the applicable dollar threshold (as defined
10 in section 3121(y)(2)) for such year”.

11 (2) AMENDMENT OF SOCIAL SECURITY ACT.—

12 Subparagraph (B) of section 209(a)(6) of the Social
13 Security Act (42 U.S.C. 409(a)(6)(B)) is amended
14 to read as follows:

15 “(B) Cash remuneration paid by an employer in
16 any calendar year to an employee for domestic serv-
17 ice in a private home of the employer, if the cash re-
18 muneration paid in such year by the employer to the
19 employee for such service is less than the applicable
20 dollar threshold (as defined in section 3121(y)(2) of
21 the Internal Revenue Code of 1986) for such year.
22 As used in this subparagraph, the term ‘domestic
23 service in a private home of the employer’ does not
24 include service described in section 210(f)(5).”

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to remuneration paid
3 in calendar years beginning after December 31,
4 1994.

5 (4) RELIEF FROM LIABILITY FOR CERTAIN
6 UNDERPAYMENT AMOUNTS.—

7 (A) IN GENERAL.—On and after the date
8 of the enactment of this Act, an underpayment
9 to which this paragraph applies (and any pen-
10 alty, addition to tax, and interest with respect
11 to such underpayment) shall not be assessed
12 (or, if assessed, shall not be collected).

13 (B) UNDERPAYMENTS TO WHICH PARA-
14 GRAPH APPLIES.—This paragraph shall apply
15 to an underpayment to the extent of the
16 amount thereof which would not be an
17 underpayment if—

18 (i) the amendments made by para-
19 graph (1) had applied to calendar years
20 1993 and 1994, and

21 (ii)(I) the applicable dollar threshold
22 for calendar year 1993 were \$1,150, and

23 (II) the applicable dollar threshold for
24 calendar year 1994 were \$1,200.

1 **SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE**
2 **TRUST FUND.**

3 (a) **ALLOCATION WITH RESPECT TO WAGES.**—Sec-
4 tion 201(b)(1) of the Social Security Act (42 U.S.C.
5 401(b)(1)) is amended by striking “(O) 1.20 per centum”
6 and all that follows through “December 31, 1999, and so
7 reported,” and inserting “(O) 1.20 per centum of the
8 wages (as so defined) paid after December 31, 1989, and
9 before January 1, 1994, and so reported, (P) 1.88 per
10 centum of the wages (as so defined) paid after December
11 31, 1993, and before January 1, 2000, and so reported,
12 and (Q) 1.80 per centum of the wages (as so defined) paid
13 after December 31, 1999, and so reported,”.

14 (b) **ALLOCATION WITH RESPECT TO SELF-EMPLOY-**
15 **MENT INCOME.**—Section 201(b)(2) of such Act (42 U.S.C.
16 401(b)(2)) is amended striking “(O) 1.20 per centum”
17 and all that follows through “December 31, 1999,” and
18 inserting “(O) 1.20 per centum of the amount of self-em-
19 ployment income (as so defined) so reported for any tax-
20 able year beginning after December 31, 1989, and before
21 January 1, 1994, (P) 1.88 per centum of the amount of
22 self-employment income (as so defined) so reported for
23 any taxable year beginning after December 31, 1993, and
24 before January 1, 2000, and (Q) 1.80 per centum of the
25 amount of self-employment income (as so defined) so re-

1 ported for any taxable year beginning after December 31,
2 1999.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to wages paid after
5 December 31, 1993, and self-employment income for tax-
6 able years beginning after such date.

7 (d) STUDY ON RISING COSTS OF DISABILITY BENE-
8 FITS.—

9 (1) IN GENERAL.—As soon as practicable after
10 the date of the enactment of this Act, the Secretary
11 of Health and Human Services shall conduct a com-
12 prehensive study of the reasons for rising costs pay-
13 able from the Federal Disability Insurance Trust
14 Fund.

15 (2) MATTERS TO BE INCLUDED IN STUDY.—In
16 conducting the study under this subsection, the Sec-
17 retary shall—

18 (A) determine the relative importance of
19 the following factors in increasing the costs
20 payable from the Trust Fund:

21 (i) increased numbers of applications
22 for benefits;

23 (ii) higher rates of benefit allowances;

24 and

1 (iii) decreased rates of benefit termi-
2 nations; and

3 (B) identify, to the extent possible, under-
4 lying social, economic, demographic, pro-
5 grammatic, and other trends responsible for
6 changes in disability benefit applications, allow-
7 ances, and terminations.

8 (3) REPORT.—Not later than December 31,
9 1995, the Secretary shall transmit a report to the
10 Committee on Ways and Means of the House of
11 Representatives and the Committee on Finance of
12 the Senate setting forth the results of the study con-
13 ducted under this subsection, together with any rec-
14 ommendations for legislative changes which the
15 Secretary determines appropriate.

16 **SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED IN-**
17 **DIVIDUALS AND INDIVIDUALS CONFINED IN**
18 **CRIMINAL CASES PURSUANT TO CONVICTION**
19 **OR BY COURT ORDER BASED ON FINDINGS**
20 **OF INSANITY.**

21 (a) IN GENERAL.—Section 202(x) of the Social Secu-
22 rity Act (42 U.S.C. 402(x)) is amended—

23 (1) in the heading, by inserting “and Certain
24 Other Inmates of Publicly Funded Institutions”
25 after “Prisoners”;

1 (2) in paragraph (1) by striking “during which
2 such individual” and inserting “during which such
3 individual—”, and by striking “is confined” and all
4 that follows and inserting the following:

5 “(A) is confined in a jail, prison, or other penal
6 institution or correctional facility pursuant to his
7 conviction of an offense punishable by imprisonment
8 for more than 1 year (regardless of the actual sen-
9 tence imposed), or

10 “(B) is confined by court order in an institution
11 at public expense in connection with—

12 “(i) a verdict that the individual is guilty
13 but insane, with respect to an offense punish-
14 able by imprisonment for more than 1 year,

15 “(ii) a verdict that the individual is not
16 guilty of such an offense by reason of insanity,

17 “(iii) a finding that such individual is in-
18 competent to stand trial under an allegation of
19 such an offense, or

20 “(iv) a similar verdict or finding with re-
21 spect to such an offense based on similar fac-
22 tors (such as a mental disease, a mental defect,
23 or mental incompetence),

24 and, for purposes of this subparagraph, an individ-
25 ual so confined shall be treated as remaining so con-

1 fined until he or she is unconditionally released from
2 the care and supervision of such institution and such
3 institution ceases to meet the individual's basic liv-
4 ing needs.”; and

5 (3) in paragraph (3), by striking “any individ-
6 ual” and all that follows and inserting “any individ-
7 ual who is confined as described in paragraph (1) if
8 the confinement is under the jurisdiction of such
9 agency and the Secretary requires such information
10 to carry out the provisions of this section.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 226 of such Act (42 U.S.C. 426) is
13 amended by adding at the end the following new
14 subsection:

15 “(i) The requirements of subsections (a)(2) and
16 (b)(2) shall not be treated as met with respect to any indi-
17 vidual for any month if a monthly benefit to which such
18 individual is entitled under section 202 or 223 for such
19 month is not payable under section 202(x).”.

20 (2) Section 226A of such Act (42 U.S.C. 426-
21 1) is amended by adding at the end the following
22 new subsection:

23 “(d) The requirements of subsection (a)(1) shall not
24 be treated as met with respect to any individual for any
25 month if a monthly benefit to which such individual is en-

1 titled under section 202 or 223 for such month is not pay-
2 able under section 202(x).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to benefits for months
5 commencing after 90 days after the date of the enactment
6 of this Act and with respect to items and services provided
7 after such 90-day period.

○

SOCIAL SECURITY ACT AMENDMENTS OF 1994

MAY 4, 1994.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 4278]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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I. INTRODUCTION

A. Purpose and Summary

H.R. 4278 amends the Social Security Act to make improvements in the administration, financing, and benefit structure of the Social Security program. The bill contains three separate provisions. The first would simplify and streamline the payment of Social Security taxes on household workers. The objective of these reforms is to reduce the administrative burden on individuals who hire household workers, to eliminate tax liability when employment is occasional or of short duration, and to establish new enforcement mechanisms to improve employers' compliance in instances where tax is due. Together these changes would help insure that household workers receive the Social Security coverage to which they are entitled by law when they retire or become disabled.

The second provision would reallocate a portion of the Social Security payroll tax from the Old-Age and Survivors Insurance Trust Fund to the Disability Insurance Trust Fund. This action is needed to restore the short-term financial solvency of the DI Trust Fund, which has been depleted by higher-than-expected levels of disability applications and awards in recent years.

The third provision would ban Social Security benefit payments to criminally insane individuals confirmed to institutions by court order at public expense. An extension of the existing ban on benefit payments to incarcerated felons, this provision would prevent payment of Social Security benefits to institutionalized individuals who are already receiving public support in the form of food, clothing, lodging, and basic health care.

B. Background and Need for the Legislation

The reforms related to household employment respond to three problems. First, the Social Security tax threshold for such employment, \$50 per quarter, has been in effect since 1950 without revision. Over the years, the declining real value of this threshold has caused individuals whose employment of household workers is occasional or of very short duration to incur Social Security tax liability. Second, the administrative requirements associated with compliance are extensive, including both quarterly and annual reports. For many domestic employers, the extent of paperwork itself discourages tax compliance. Third, given the relatively low amounts of tax involved, enforcement in this area has been consistently assigned a low priority by the Internal Revenue Service. Today, according to IRS estimates, less than 25 percent of domestic employers comply with the law. This low level of compliance not only reduces revenues to the Social Security Trust Fund, it also results in a loss of Social Security coverage for domestic workers who typically lack retirement or disability coverage from any other source.

The provision reallocating a portion of the Social Security payroll tax from the OASI Trust Fund to the DI Trust Fund implements a recommendation from the Social Security Board of Trustees. In an April 11, 1994, letter to the Speaker of the House, the Trustees described this reallocation as necessary to restore the solvency of

the DI Trust Fund, which they project will be depleted during 1995 unless action is taken. The Trustees urged that Congress approve the reallocation as soon as possible to allay continuing public concern about the financing of the DI program. They also recommended that the best possible research be undertaken to establish whether the recent rapid growth in the number of DI beneficiaries is a temporary or longer-term trend.

The third provision bans Social Security benefits in a circumstance where their payment runs counter to the traditional purpose of the program. Social Security is intended to replace earnings and provide basic income for food, clothing, and shelter to workers who retire or become disabled. Individuals who have been committed to an institution pursuant to committing a crime are already relying on public funds to cover the costs of their basic living expenses. It is particularly inequitable that, in some instances, criminally insane individuals so institutionalized receive higher benefits than their victims or their victims' survivors.

C. Legislative History

(1) *Household employment*—Reforms simplifying the payment of employment taxes on household workers were first recommended by the Internal Revenue Service in 1991. Congress approved these recommendations on two separate occasions during the 102nd Congress, first, as part of H.R. 4210 and, subsequently, as part of H.R. 11. Both provisions differed from the current proposal in that they established an annual Social Security tax threshold of \$300, as opposed to \$1,250. The omnibus tax bills in which they were included, H.R. 4210 and H.R. 11, were vetoed by President Bush.

In the 103rd Congress, Chairman Rostenkowski reintroduced the domestic simplification provision as part of H.R. 13, the Tax Simplification Act of 1993. On March 4, 1993, this provision was the subject of a hearing in the Subcommittee on Social Security.

On May 11, 1993, the Committee on Ways and Means again approved the provision, this time with a higher Social Security threshold of \$1,800. The provision was subsequently approved by the full House of Representatives as part of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. At the insistence of the Senate, the provision was dropped from H.R. 2264 in conference.

(2) *DI reallocation*—On April 2, 1992, in compliance with section 709 of the Social Security Act, the Social Security Board of Trustees notified the House of Representatives and Senate that the reserves of the Disability Insurance trust Fund were projected to be depleted as early as 1995. The Board subsequently recommended a Social Security tax reallocation from the OASI Trust Fund to the DI Trust Fund to address this problem.

On April 22, 1993, the Board's recommendation was the subject of a hearing in the Subcommittee on Social Security. On May 11, 1993, the recommended reallocation was approved by the Committee on Ways and Means as part of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. As with the provision simplifying household employment taxes, the Senate insisted on deleting this provision in the conference on H.R. 2264.

(3) *Ban on benefits to criminally insane*—The existing ban on Social Security benefit payments to incarcerated felons was enacted

by Congress in 1980 as part of Public Law 96-473. The provision extending this ban to the criminally insane was first introduced by Social Security Subcommittee Chairman Andy Jacobs as H.R. 979 on February 18, 1993. H.R. 979 was the subject of a hearing in the Social Security Subcommittee on September 21, 1993. The provision included in H.R. 4278 is similar to H.R. 979 but contains minor modifications that respond to issues raised at this hearing.

II. EXPLANATION OF PROVISIONS

A. Short Summary

1. SIMPLIFICATION OF EMPLOYMENT TAXES FOR DOMESTIC SERVICES

The provision would simplify and streamline the payment of employment taxes on household workers by: (a) raising the Social Security tax threshold from \$50 per quarter to \$1,250 annually in 1995 and indexing it thereafter for increases in average wages; (b) adjusting the threshold retroactively to \$1,150 in 1993 and \$1,200 in 1994 (no refunds would be provided); (c) requiring individuals who employ only domestic workers to report any Social Security or Federal unemployment tax obligations for these workers annually on their own Federal income tax returns; (d) requiring employers to satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages; (e) authorizing the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above; and (f) requiring the Secretary to provide domestic employers with a comprehensive package of informational materials on their responsibilities under Federal and State law.

2. REALLOCATION OF A PORTION OF THE SOCIAL SECURITY TAX TO THE DISABILITY INSURANCE TRUST FUND

A portion of the Social Security payroll tax would be reallocated. Specifically, 0.34 percent of the employer and employee Social Security payroll tax rate, each, and 0.68 percent of the self-employment tax rate would be reallocated from the Old-Age and Survivors Insurance (OASI) Trust Fund to the Disability Insurance (DI) Trust Fund for 1994 through 1999. For the year 2000 and thereafter, this reallocation would be reduced to 0.30 percent for employers and employees, each, and 0.60 percent for the self-employed above the present tax rate. The combined OASDHI tax rate of 7.65 percent for employers and employees, each, and 15.30 percent for the self-employed would remain unchanged.

3. LIMITATION ON PAYMENTS TO INCARCERATED CRIMINALS AND CRIMINALLY INSANE INDIVIDUALS CONFINED TO INSTITUTIONS BY COURT ORDER AT PUBLIC EXPENSE

The existing limitation on Social Security benefits to incarcerated felons would be extended to criminally insane individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year. In addition, to equalize the application of the existing limitation across the States, it would be modified to apply to all individ-

uals convicted of an offense punishable by imprisonment for more than one year, without regard to whether the offense was a felony.

B. Section-by-Section Summary

1. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES (SECTION TWO)

Present law

Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire independent contractors to provide domestic services are excluded from these requirements.) For Social Security, the wage threshold is \$50 per quarter; for Federal unemployment insurance, it is \$1,000 per quarter. The \$50 threshold was enacted in 1950 and has not changed since that time.

When the \$50 threshold is reached, the employer must file a quarterly report (form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both employer and employee. The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (form W-2) at the end of the year. When the \$1,000 unemployment insurance wage threshold is reached for any calendar quarter, the employer must file a report (form 940) with the IRS at the end of the year, submitting with it the required tax. (Employers who owe more than \$100 in FUTA tax at the end of a calendar quarter must deposit the amount due by the end of the following month.)

Explanation of provision

The provision would simplify and streamline the payment of employment taxes on domestic workers, reducing significantly the administrative burden on their employers; eliminate liability for Social Security tax in cases where domestic employment is occasional or of short duration; and establish new enforcement mechanisms to improve domestic employers' tax compliance, thus insuring that workers receive the Social Security and unemployment coverage to which they are entitled. The provision would achieve these changes by:

—Raising the threshold for withholding and paying Social Security taxes on domestic workers from \$50 per quarter to \$1,250 annually in 1995 and indexing it thereafter for increases in average wages in the economy;

—Adjusting the Social Security tax threshold retroactively to \$1,150 in 1993 and \$1,200 in 1994. No underpayment of taxes (or any penalty or interest with respect to such underpayment) which is covered by this provision shall be assessed (or if assessed, shall be collected), effective on or after the date of enactment. No tax refunds would be provided;

—Requiring individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid to these workers and authorizing the Secretary of the Treasury to revise the Federal form 1040 to enable such employers to report both taxes on their own Federal income tax returns;

—Including domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions, thereby enabling these employers to satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages;

—Authorizing the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above; and

—Requiring the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

Effective date

The provision would generally apply to remuneration paid in calendar years beginning after December 31, 1994.

2. REALLOCATION OF A PORTION OF THE OLD-AGE AND SURVIVORS INSURANCE PAYROLL TAX TO THE DISABILITY INSURANCE TRUST FUND (SECTION THREE)

Present law

Employees and employers each pay a Social Security payroll tax of 7.65 percent on earnings up to a specified ceiling. Of the 7.65 percent, 1.45 percent is allocated to the Hospital Insurance Trust Fund, 5.6 percent is allocated to the Old-Age and Survivors Insurance Trust Fund, and 0.6 percent is allocated to the Disability Insurance Trust Fund. The 15.3 percent tax on net earnings from self-employment is similarly allocated to the HI Trust Fund (2.90 percent), the OASI Trust Fund (11.2 percent), and the DI Trust Fund (1.2 percent). As a result of the 1983 Social Security Amendments (P.L. 98-21), 0.71 percent will be allocated to the DI Trust Fund beginning in the year 2000.

In its 1993 and 1994 reports to Congress, the Social Security Board of Trustees determined that, under its intermediate economic assumptions, the DI Trust Fund will be depleted during 1995. While expressing uncertainty about the cause of this problem, the Board suggested that it may be attributable in part to the rise in unemployment associated with the 1990-91 economic recession. To address the expected DI shortfall, the Board recommended that Congress reallocate a portion of the Social Security tax rate from the OASI Trust Fund to the DI Trust Fund, as described below. The Board also recommended that the best possible research be undertaken to establish more clearly whether the recent rapid growth in the DI program is a temporary occurrence or a longer-term trend.

Explanation of provision

Following the recommendation of the Social Security Board of Trustees, the provision would allocate an additional 0.34 percent of the total the employer and employee Social Security payroll tax rate, each, and 0.68 percent of the self-employment tax rate from the OASI Trust Fund to the DI Trust Fund, effective for 1994

through 1999. As a result, the DI tax would equal 0.94 percent for employers and employees and 1.88 percent for self-employed individuals. The combined OASDHI tax rate of 7.65 percent would remain unchanged. Beginning in 2000, the DI tax rate would be reduced from 0.94 percent to 0.90 percent, with a commensurate increase in the OASI tax.

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective date

The provision would apply to wages paid after December 31, 1993, and a self-employment income for taxable years beginning after this date.

3. LIMITATION ON PAYMENTS TO INCARCERATED CRIMINALS AND CRIMINALLY INSANE INDIVIDUALS CONFINED TO INSTITUTIONS BY COURT ORDER AT PUBLIC EXPENSE (SECTION FOUR)

Present law

Individuals who are confined to a prison, jail, or other penal institution or correctional facility as the result of a felony conviction are barred from receiving Social Security benefit payments. (Qualified family members of such individuals may continue to receive benefits). An exception is provided for imprisoned felons who are satisfactorily participating in a court-approved program of rehabilitation which the Secretary of Health and Human Services has determined is likely to result in the individual's return to work upon release from prison. During 1993, the Secretary processed a total of 16 applications for exceptions to this limitation, of which one was granted approval.

The Social Security Act provides no limitation on benefit payments to individuals who are confined to an institution by court order at public expense pursuant to an institution by court order at public expense pursuant to a verdict that they are not guilty of an offense by reason of insanity.

Explanation of provision

The provision would broaden the current limitation on Social Security benefits to incarcerated felons and extend this limitation to criminally insane individuals confined to institutions by court order at public expense. In making these changes, the Committee is seeking to establish greater consistency in the policy that Congress enacted in 1980 banning Social Security benefit payments to incarcer-

ated felons. That limitation recognizes that prisoners receive full support from public resources in the form of food, clothing, lodging, and basic health care. In the Committee's view, the same situation exists in the case of criminally insane individuals who are confined to institutions at public expense. The provision would:

Apply the limitation on benefit payments, which currently extends only to incarcerated felons, to all individuals convicted of an offense punishable by imprisonment for more than one year. Because the definition of a felony varies from State to State, the change would equalize the application of the limitation among the States;

Repeal the exception to the limitation for inmates participating in court-approved rehabilitation (for which the Secretary has received and approved few applications, as illustrated above); and

Extend the limitation to criminally insane individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year.

For the third category, the court order must be issued in connection with a verdict of guilty but insane, a verdict of not guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding based on similar factors (such as mental disease, mental defect, or mental incompetence). The limitation would continue to apply until such time as the individual is unconditionally released from the care and supervision of the institution to which he or she was committed, so long as the institution continues to cover the cost of the individual's basic living needs. A similar limitation would be placed on Medicare part A hospital insurance (as well as on Medicare part B supplemental medical insurance in cases where eligibility for part B is conditioned on eligibility for part A).

To enforce the ban, the Secretary of Health and Human Services would be authorized to require from institutions the names and Social Security numbers of individuals confined there under the conditions described above.

Effective date

The provision would apply to benefits for months commencing after 90 days after enactment and with respect to items and services provided after this 90-day period.

III. VOTE OF THE COMMITTEE

In compliance with clause 2(1)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made: the bill, H.R. 4278, was ordered favorably reported to the House of Representatives on April 28, 1994, by voice vote.

IV. BUDGET EFFECTS OF THE BILL

A. Committee estimate of budget effects

In compliance with clause 7(a) of Rule XIII of the Rules of the House of Representatives, the following statement is made: the

Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. Statement regarding new budget authority and tax expenditures

In compliance with clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives, the Committee states that H.R. 4278 does not require any new budget authority or create additional tax expenditures.

C. Cost estimate prepared by the Congressional Budget Office

In compliance with clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office (CBO), the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 4, 1994.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for H.R. 4278, the Social Security Act Amendments of 1994, as ordered reported by the Committee on Ways and Means on April 28, 1994. The bill would change the manner in which employment taxes are paid for domestic service workers, reallocate tax rates between the Old-Age and Survivors Insurance and Disability Insurance trust funds, and prohibit the payment of Social Security benefits for certain individuals confined by court order to mental health facilities.

Enactment of H.R. 4278 would affect direct spending or receipts and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(for Robert D. Reischauer, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4278.
2. Bill title: Social Security Act Amendments of 1994.
3. Bill status: As ordered reported by the Committee on Ways and Means on April 28, 1994.
4. Bill purpose: To make improvements in the old-age, survivors, and disability insurance program under Title II of the Social Security Act, and for other purposes.
5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1995	1996	1997	1998	1999
Revenues:					
On-budget	-43	10	10	10	10
Off-budget	-112	3	4	3	3
Total	-155	13	14	13	13
Direct Spending:					
On-budget	-4	-5	-6	-6	-7
Off-budget	-8	-10	-11	-11	-11
Total	-11	-15	-17	-17	-18
Deficit:					
On-budget	39	-15	-16	-16	-17
Off-budget	104	-13	-15	-14	-14
Total	144	-28	-30	-30	-31

Note.—Details may not add to totals because of rounding.

The costs of this bill fall within budget function 650.

Basis of estimate: H.R. 4278 modifies the Social Security and Medicare payroll taxes related to the employment of domestic workers, reallocates payroll tax rates between the Old-Age and Survivors Insurance and Disability Insurance trust funds, and restricts payments for persons committed to mental health facilities for criminal behavior. The estimated impacts of H.R. 4278 are based on an assumed enactment date of September 30, 1994.

Section 2. Simplification of employment taxes on domestic services

Under current law, employers are required to pay Social Security and Medicare payroll taxes for persons providing domestic services—for example, babysitting, lawn and garden care, snow shoveling, and similar tasks—if the employee earns more than \$50 in wages during a calendar quarter. H.R. 4278 changes the quarterly amount of \$50 to a calendar year level of \$1,250 in 1995. In future years, the domestic earnings threshold would increase by earnings growth, except that no increase would occur if it would be less than \$50. In addition to the change in the minimum earnings that has to be reported, H.R. 4278 would also allow employers to pay these payroll taxes at the same time as they pay their income taxes.

According to estimates provided by the Joint Committee on Taxation (JCT), these changes would cause a revenue loss of \$155 million dollars in 1995 but would increase revenues each subsequent year, with a net 5-year revenue loss of \$102 million. The on-budget effects, which relate to Medicare and income tax receipts, are lost receipts of \$43 million in 1995 and \$3 million over the 1995–1999 period.

Because the increased earnings threshold would exempt some wages earned by domestic service workers, H.R. 4278 could potentially reduce the Social Security benefits to which these workers might later become entitled. The CBO expects these reduced benefits to have negligible outlay effects, however.

Section 3. Allocations to Federal Disability Insurance Trust Fund

H.R. 4278 would shift a portion of the Social Security payroll taxes for the Old-Age and Survivors Insurance trust fund to the

Disability Insurance trust fund. Because the bill does not change the overall payroll tax rates, however, there is no budgetary impact of the reallocation.

Section 4. Prohibition on payment of benefits to certain individuals confined by court order to public institutions

Under current law, persons convicted of felonies are not allowed to receive Social Security disability benefits while in prison. H.R. 4278 would extend this treatment to persons confined by court order to mental health facilities following a finding of not guilty by reason of insanity (NGRI), of guilty but insane, or of being incompetent to stand trial.

The restriction on benefits for the NGRI cases is estimated to reduce Social Security benefit payments by \$8 million in 1995 and by \$51 million over the 1995–1999 period. The estimate is based on three studies, two of which were not directed toward the issue of how many Social Security recipients are confirmed under NGRI determination, but rather were directed toward the use of the NGRI plea. A Department of Health and Human Services report from the Inspector General's (IG) office in 1987 found that 26 percent of the mental disorder detainees in state forensic hospitals were Social Security recipients. This percentage, when applied to all mental disorder detainees, translated into 2,162 beneficiaries in 1985. In contrast, a study by Henry J. Steadman using data from a 1978 survey of states found that the average number of NGRI detainees was 3,140. Combining this with the IG's finding that 38 percent of NGRI detainees received Social Security benefits would yield about 1,190 recipients.

Because these data are out-of-date, it is difficult to know how to apply these results to the current Social Security beneficiary population. While the use of the NGRI plea has declined over the past 15 years and the mentally impaired, institutionalized population has also plummeted, the sentencing of NGRI detainees has become stricter and the proportion of the Social Security disabled population diagnosed with mental disorders has risen significantly. The estimated savings from this section of H.R. 4278 is based on the assumption that 1,500 NGRI detainees would be affected. Using the average benefit figure from the IG's report and inflating it to 1995 results in annual benefit savings of \$6,760 per detainee.

The bill also suspends Medicare benefits for the same set of Social Security recipients affected by restrictions on prisoners and other inmates. Based on data on Medicare payments to public psychiatric hospitals, CBO estimates that 1.3 percent of these expenditures are made on behalf of the persons confined pursuant to criminal behavior. This provision would save Medicare \$4 million in 1995 and \$27 million over the 1995–1999 period. These savings are classified as on-budget items.

6. Pay-as-you-go considerations: The pay-as-you-go effects of the bill are as follows:

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998
Receipts	-43	10	10	10
Outlays	-4	-5	-6	-6

The on-budget revenue and outlay changes have an impact on the pay-as-you-go scorecard. The Social Security revenue and benefit changes are exempt from the pay-as-you-go rules.

7. Estimated cost to State and local government: H.R. 4278 would have some impact on state costs. The reduced Medicare payments to state mental health facilities (\$4 million to \$7 million annually) would have to be offset by additional state contributions to the facilities.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Paul Cullinan.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee oversight findings and recommendations

In compliance with clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee reports that the Subcommittee on Social Security held three hearings during the 103rd Congress that relate to the need for H.R. 4278.

March 4, 1993—The Subcommittee held a hearing to examine the burden of employment tax compliance for individuals who hire domestic workers and the consequences of noncompliance for domestic workers who attempt to qualify for Social Security and unemployment compensation. This hearing also examined proposals to simplify and streamline the payment of employment taxes on domestic workers, including H.R. 13, introduced by Chairman Rostenkowski.

April 22, 1993—The Subcommittee held a hearing on the financial shortfall facing of the Disability Insurance Trust Fund. This hearing also focused on a proposal by the Social Security Board of Trustees to address the problem by reallocating additional tax revenue from the OASI Trust Fund to the DI Trust Fund.

September 21, 1993—The Subcommittee held a hearing to examine the policy rationale for Social Security benefit payments by criminally insane individuals confined to public institutions in connection with a felony charge. This hearing also examined the use of such payments by criminally insane individuals in a number of specific instances.

B. Summary of findings and recommendations of the Government Operations Committee

In compliance with clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings and recommendations have been submitted to this Committee by the Committee on Government Operations with respect to the provisions contained in this bill.

C. Inflationary impact statement

With respect to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee believes that H.R. 4278 would

not have an inflationary impact on prices and costs in the operation of the general economy.

VI. 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 italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

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Subtitle C—Employment Taxes

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CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

* * * * *

Subchapter A—Tax on Employees

* * * * *

SEC. 3102. DEDUCTION OF TAX FROM WAGES.

(a) REQUIREMENT.—The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar [quarter] year pays to an employee cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar [quarter] year is less than [\$50] *the applicable dollar threshold (as defined in section 3121(y)(2)) for such year*; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with re-

spect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

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Subchapter C—General Provisions

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SEC. 3121. DEFINITIONS.

(a) **WAGES.**—For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include—

(1) * * *

* * * * *

(7)(A) remuneration paid in any medium other than cash to an employee for service not in the course of the employer’s trade or business or for domestic service in a private home of the employer;

[(B) cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this subparagraph, the term “domestic service in a private home of the employer” does not include service described in subsection (g)(5);]

(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (within the meaning of subsection (y)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year;

* * * * *

(y) **DOMESTIC SERVICE IN A PRIVATE HOME.**—For purposes of subsection (a)(7)(B)—

(1) **EXCLUSION FOR CERTAIN FARM SERVICE.**—The term “domestic service in a private home of the employer” does not include service described in subsection (g)(5).

(2) **APPLICABLE DOLLAR THRESHOLD.**—The term “applicable dollar threshold” means \$1,250. In the case of calendar years after 1995, the Secretary of Health and Human Services shall adjust such \$1,250 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If the amount determined under the preceding sentence is not a multiple of

\$50, such amount shall be rounded to the nearest multiple of \$50.

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CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

Sec. 3501. Collection and payment of taxes.

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Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.

* * * * *

SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

(a) **GENERAL RULE.**—Except as otherwise provided in this section—

(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

(b) **DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.**—

(1) **IN GENERAL.**—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

(2) **ANNUALIZATION.**—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

(3) **TRANSITIONAL RULE.**—For purposes of applying section 6654 to a taxable year beginning in 1994, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

(c) **DOMESTIC SERVICE EMPLOYMENT TAXES.**—For purposes of this section, the term "domestic service employment taxes" means—

(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term "domestic service in a private home of the employer" does not include service described in section 3121(g)(5).

(d) **EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.**—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any

calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

(e) **GENERAL REGULATORY AUTHORITY.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

(f) **AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.**—

(1) **IN GENERAL.**—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

(2) **TRANSFERS TO STATE ACCOUNT.**—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

(3) **SUBTITLE F MADE APPLICABLE.**—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

(4) **STATE.**—For purposes of this subsection, the term "State" has the meaning given such term by section 3306(j)(1).

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SOCIAL SECURITY ACT

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

* * * * *

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

SECTION 201. (a) * * *

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gift and bequests as may be made as provided in subsection (i)(1), and such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) $\frac{1}{2}$ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, (C) 0.95 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (N) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, [(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,] *(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 2000, and so reported, and (Q) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,* which wages shall be certified by the Secretary of Health and Human Services on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2)(A) $\frac{3}{8}$ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so de-

fined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1988, (N) 1.06 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, [(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999,] (O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 2000, and (Q) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999, which self-employment income shall be certified by the Secretary of Health and Human Services on the basis of the records of self-employment income established and maintained by the Secretary of Health and Human Services in accordance with such returns.

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old-Age Insurance Benefits

SEC. 202. (a) * * *

* * * * *

Limitation on Payments to Prisoners and Certain Other Inmates of Publicly Funded Institutions

(x)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month [during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.] *during which such individual—*

(A) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

(B) is confined by court order in an institution at public expense in connection with—

(i) a verdict that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

(ii) a verdict that the individual is not guilty of such an offense by reason of insanity,

(iii) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

(iv) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence),

and, for purposes of this subparagraph, an individual so confined shall be treated as remaining so confined until he or she is unconditionally released from the care and supervision of such institution and such institution ceases to meet the individual's basic living needs.

* * * * *

(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of [any individual who is confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.] *any individual who is*

Union Calendar No. 274

103^D CONGRESS
2^D SESSION**H. R. 4278**

[Report No. 103-491]

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1994

Mr. JACOBS (for himself, Mrs. KENNELLY, Mr. BUNNING, Mr. HOUGHTON, and Mrs. MEEK) introduced the following bill; which was referred to the Committee on Ways and Means

MAY 4, 1994

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Social Security Act
5 Amendments of 1994".

1 **SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON**
2 **DOMESTIC SERVICES.**

3 (a) COORDINATION OF COLLECTION OF DOMESTIC
4 SERVICE EMPLOYMENT WITH COLLECTION OF INCOME
5 TAXES.—

6 (1) IN GENERAL.—Chapter 25 of the Internal
7 Revenue Code of 1986 (relating to general provi-
8 sions relating to employment taxes) is amended by
9 adding at the end thereof the following new section:

10 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**
11 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**
12 **TION OF INCOME TAXES.**

13 “(a) GENERAL RULE.—Except as otherwise provided
14 in this section—

15 “(1) returns with respect to domestic service
16 employment taxes shall be made on a calendar year
17 basis,

18 “(2) any such return for any calendar year
19 shall be filed on or before the 15th day of the fourth
20 month following the close of the employer’s taxable
21 year which begins in such calendar year, and

22 “(3) no requirement to make deposits (or to
23 pay installments under section 6157) shall apply
24 with respect to such taxes.

25 “(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-
26 JECT TO ESTIMATED TAX PROVISIONS.—

1 “(1) IN GENERAL.—Solely for purposes of sec-
2 tion 6654, domestic service employment taxes im-
3 posed with respect to any calendar year shall be
4 treated as a tax imposed by chapter 2 for the tax-
5 able year of the employer which begins in such cal-
6 endar year.

7 “(2) ANNUALIZATION.—Under regulations pre-
8 scribed by the Secretary, appropriate adjustments
9 shall be made in the application of section
10 6654(d)(2) in respect of the amount treated as tax
11 under paragraph (1).

12 “(3) TRANSITIONAL RULE.—For purposes of
13 applying section 6654 to a taxable year beginning in
14 1994, the amount referred to in clause (ii) of section
15 6654(d)(1)(B) shall be increased by 90 percent of
16 the amount treated as tax under paragraph (1) for
17 such taxable year.

18 “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—
19 For purposes of this section, the term ‘domestic service
20 employment taxes’ means—

21 “(1) any taxes imposed by chapter 21 or 23 on
22 remuneration paid for domestic service in a private
23 home of the employer, and

1 “(2) any amount withheld from such remunera-
2 tion pursuant to an agreement under section
3 3402(p).

4 For purposes of this subsection, the term ‘domestic service
5 in a private home of the employer’ does not include service
6 described in section 3121(g)(5).

7 “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR
8 OTHER EMPLOYMENT TAXES.—To the extent provided in
9 regulations prescribed by the Secretary, this section shall
10 not apply to any employer for any calendar year if such
11 employer is liable for any tax under this subtitle with re-
12 spect to remuneration for services other than domestic
13 service in a private home of the employer.

14 “(e) GENERAL REGULATORY AUTHORITY.—The Sec-
15 retary shall prescribe such regulations as may be nec-
16 essary or appropriate to carry out the purposes of this
17 section. Such regulations may treat domestic service em-
18 ployment taxes as taxes imposed by chapter 1 for purposes
19 of coordinating the assessment and collection of such em-
20 ployment taxes with the assessment and collection of do-
21 mestic employers’ income taxes.

22 “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO
23 COLLECT STATE UNEMPLOYMENT TAXES.—

24 “(1) IN GENERAL.—The Secretary is hereby
25 authorized to enter into an agreement with any

1 State to collect, as the agent of such State, such
2 State's unemployment taxes imposed on remunera-
3 tion paid for domestic service in a private home of
4 the employer. Any taxes to be collected by the Sec-
5 retary pursuant to such an agreement shall be treat-
6 ed as domestic service employment taxes for pur-
7 poses of this section.

8 “(2) TRANSFERS TO STATE ACCOUNT.—Any
9 amount collected under an agreement referred to in
10 paragraph (1) shall be transferred by the Secretary
11 to the account of the State in the Unemployment
12 Trust Fund.

13 “(3) SUBTITLE F MADE APPLICABLE.—For
14 purposes of subtitle F, any amount required to be
15 collected under an agreement under paragraph (1)
16 shall be treated as a tax imposed by chapter 23.

17 “(4) STATE.—For purposes of this subsection,
18 the term ‘State’ has the meaning given such term by
19 section 3306(j)(1).”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 25 of such Code is amended by
22 adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to remuneration paid

1 in calendar years beginning after December 31,
2 1994.

3 (4) EXPANDED INFORMATION TO EMPLOY-
4 ERS.—The Secretary of the Treasury or his delegate
5 shall prepare and make available information on the
6 Federal tax obligations of employers with respect to
7 employees performing domestic service in a private
8 home of the employer. Such information shall also
9 include a statement that such employers may have
10 obligations with respect to such employees under
11 State laws relating to unemployment insurance and
12 workers compensation.

13 (b) THRESHOLD REQUIREMENT FOR SOCIAL SECU-
14 RITY TAXES.—

15 (1) AMENDMENTS OF INTERNAL REVENUE
16 CODE.—

17 (A) Subparagraph (B) of section
18 3121(a)(7) of the Internal Revenue Code of
19 1986 (defining wages) is amended to read as
20 follows:

21 “(B) cash remuneration paid by an em-
22 ployer in any calendar year to an employee for
23 domestic service in a private home of the em-
24 ployer (within the meaning of subsection (y)), if
25 the cash remuneration paid in such year by the

1 employer to the employee for such service is less
2 than the applicable dollar threshold (as defined
3 in subsection (y)) for such year;”.

4 (B) Section 3121 of such Code is amended
5 by adding at the end thereof the following new
6 subsection:

7 “(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For
8 purposes of subsection (a)(7)(B)—

9 “(1) EXCLUSION FOR CERTAIN FARM SERV-
10 ICE.—The term ‘domestic service in a private home
11 of the employer’ does not include service described
12 in subsection (g)(5).

13 “(2) APPLICABLE DOLLAR THRESHOLD.—The
14 term ‘applicable dollar threshold’ means \$1,250. In
15 the case of calendar years after 1995, the Secretary
16 of Health and Human Services shall adjust such
17 \$1,250 amount at the same time and in the same
18 manner as under section 215(a)(1)(B)(ii) of the So-
19 cial Security Act with respect to the amounts re-
20 ferred to in section 215(a)(1)(B)(i) of such Act, ex-
21 cept that, for purposes of this paragraph, 1993 shall
22 be substituted for the calendar year referred to in
23 section 215(a)(1)(B)(ii)(II) of such Act. If the
24 amount determined under the preceding sentence is

1 not a multiple of \$50, such amount shall be rounded
2 to the nearest multiple of \$50.”.

3 (C) The second sentence of section 3102(a)
4 of such Code is amended—

5 (i) by striking “calendar quarter”
6 each place it appears and inserting “cal-
7 endar year”, and

8 (ii) by striking “\$50” and inserting
9 “the applicable dollar threshold (as defined
10 in section 3121(y)(2)) for such year”.

11 (2) AMENDMENT OF SOCIAL SECURITY ACT.—

12 Subparagraph (B) of section 209(a)(6) of the Social
13 Security Act (42 U.S.C. 409(a)(6)(B)) is amended
14 to read as follows:

15 “(B) Cash remuneration paid by an employer in
16 any calendar year to an employee for domestic serv-
17 ice in a private home of the employer, if the cash re-
18 munerated paid in such year by the employer to the
19 employee for such service is less than the applicable
20 dollar threshold (as defined in section 3121(y)(2) of
21 the Internal Revenue Code of 1986) for such year.
22 As used in this subparagraph, the term ‘domestic
23 service in a private home of the employer’ does not
24 include service described in section 210(f)(5).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to remuneration paid
3 in calendar years beginning after December 31,
4 1994.

5 (4) RELIEF FROM LIABILITY FOR CERTAIN
6 UNDERPAYMENT AMOUNTS.—

7 (A) IN GENERAL.—On and after the date
8 of the enactment of this Act, an underpayment
9 to which this paragraph applies (and any pen-
10 alty, addition to tax, and interest with respect
11 to such underpayment) shall not be assessed
12 (or, if assessed, shall not be collected).

13 (B) UNDERPAYMENTS TO WHICH PARA-
14 GRAPH APPLIES.—This paragraph shall apply
15 to an underpayment to the extent of the
16 amount thereof which would not be an
17 underpayment if—

18 (i) the amendments made by para-
19 graph (1) had applied to calendar years
20 1993 and 1994, and

21 (ii)(I) the applicable dollar threshold
22 for calendar year 1993 were \$1,150, and

23 (II) the applicable dollar threshold for
24 calendar year 1994 were \$1,200.

1 **SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE**
2 **TRUST FUND.**

3 (a) ALLOCATION WITH RESPECT TO WAGES.—Sec-
4 tion 201(b)(1) of the Social Security Act (42 U.S.C.
5 401(b)(1)) is amended by striking “(O) 1.20 per centum”
6 and all that follows through “December 31, 1999, and so
7 reported,” and inserting “(O) 1.20 per centum of the
8 wages (as so defined) paid after December 31, 1989, and
9 before January 1, 1994, and so reported, (P) 1.88 per
10 centum of the wages (as so defined) paid after December
11 31, 1993, and before January 1, 2000, and so reported,
12 and (Q) 1.80 per centum of the wages (as so defined) paid
13 after December 31, 1999, and so reported,”.

14 (b) ALLOCATION WITH RESPECT TO SELF-EMPLOY-
15 MENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C.
16 401(b)(2)) is amended striking “(O) 1.20 per centum”
17 and all that follows through “December 31, 1999,” and
18 inserting “(O) 1.20 per centum of the amount of self-em-
19 ployment income (as so defined) so reported for any tax-
20 able year beginning after December 31, 1989, and before
21 January 1, 1994, (P) 1.88 per centum of the amount of
22 self-employment income (as so defined) so reported for
23 any taxable year beginning after December 31, 1993, and
24 before January 1, 2000, and (Q) 1.80 per centum of the
25 amount of self-employment income (as so defined) so re-

1 ported for any taxable year beginning after December 31,
2 1999.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to wages paid after
5 December 31, 1993, and self-employment income for tax-
6 able years beginning after such date.

7 (d) STUDY ON RISING COSTS OF DISABILITY BENE-
8 FITS.—

9 (1) IN GENERAL.—As soon as practicable after
10 the date of the enactment of this Act, the Secretary
11 of Health and Human Services shall conduct a com-
12 prehensive study of the reasons for rising costs pay-
13 able from the Federal Disability Insurance Trust
14 Fund.

15 (2) MATTERS TO BE INCLUDED IN STUDY.—In
16 conducting the study under this subsection, the Sec-
17 retary shall—

18 (A) determine the relative importance of
19 the following factors in increasing the costs
20 payable from the Trust Fund:

21 (i) increased numbers of applications
22 for benefits;

23 (ii) higher rates of benefit allowances;

24 and

1 (iii) decreased rates of benefit termi-
2 nations; and

3 (B) identify, to the extent possible, under-
4 lying social, economic, demographic, pro-
5 grammatic, and other trends responsible for
6 changes in disability benefit applications, allow-
7 ances, and terminations.

8 (3) REPORT.—Not later than December 31,
9 1995, the Secretary shall transmit a report to the
10 Committee on Ways and Means of the House of
11 Representatives and the Committee on Finance of
12 the Senate setting forth the results of the study con-
13 ducted under this subsection, together with any rec-
14 ommendations for legislative changes which the
15 Secretary determines appropriate.

16 **SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED IN-**
17 **DIVIDUALS AND INDIVIDUALS CONFINED IN**
18 **CRIMINAL CASES PURSUANT TO CONVICTION**
19 **OR BY COURT ORDER BASED ON FINDINGS**
20 **OF INSANITY.**

21 (a) IN GENERAL.—Section 202(x) of the Social Secu-
22 rity Act (42 U.S.C. 402(x)) is amended—

23 (1) in the heading, by inserting “and Certain
24 Other Inmates of Publicly Funded Institutions”
25 after “Prisoners”;

1 (2) in paragraph (1) by striking “during which
2 such individual” and inserting “during which such
3 individual—”, and by striking “is confined” and all
4 that follows and inserting the following:

5 “(A) is confined in a jail, prison, or other penal
6 institution or correctional facility pursuant to his
7 conviction of an offense punishable by imprisonment
8 for more than 1 year (regardless of the actual sen-
9 tence imposed), or

10 “(B) is confined by court order in an institution
11 at public expense in connection with—

12 “(i) a verdict that the individual is guilty
13 but insane, with respect to an offense punish-
14 able by imprisonment for more than 1 year,

15 “(ii) a verdict that the individual is not
16 guilty of such an offense by reason of insanity,

17 “(iii) a finding that such individual is in-
18 competent to stand trial under an allegation of
19 such an offense, or

20 “(iv) a similar verdict or finding with re-
21 spect to such an offense based on similar fac-
22 tors (such as a mental disease, a mental defect,
23 or mental incompetence),

24 and, for purposes of this subparagraph, an individ-
25 ual so confined shall be treated as remaining so con-

1 fined until he or she is unconditionally released from
2 the care and supervision of such institution and such
3 institution ceases to meet the individual's basic liv-
4 ing needs.”; and

5 (3) in paragraph (3), by striking “any individ-
6 ual” and all that follows and inserting “any individ-
7 ual who is confined as described in paragraph (1) if
8 the confinement is under the jurisdiction of such
9 agency and the Secretary requires such information
10 to carry out the provisions of this section.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 226 of such Act (42 U.S.C. 426) is
13 amended by adding at the end the following new
14 subsection:

15 “(i) The requirements of subsections (a)(2) and
16 (b)(2) shall not be treated as met with respect to any indi-
17 vidual for any month if a monthly benefit to which such
18 individual is entitled under section 202 or 223 for such
19 month is not payable under section 202(x).”.

20 (2) Section 226A of such Act (42 U.S.C. 426-
21 1) is amended by adding at the end the following
22 new subsection:

23 “(d) The requirements of subsection (a)(1) shall not
24 be treated as met with respect to any individual for any
25 month if a monthly benefit to which such individual is en-

1 titled under section 202 or 223 for such month is not pay-
2 able under section 202(x).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to benefits for months
5 commencing after 90 days after the date of the enactment
6 of this Act and with respect to items and services provided
7 after such 90-day period.

Union Calendar No. 274

**103^D CONGRESS
2^D SESSION**

H. R. 4278

[Report No. 103-491]

A BILL

**To make improvements in the old-age, survivors,
and disability insurance program under title II of
the Social Security Act.**

MAY 4, 1994

**Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed**

103D CONGRESS
1ST SESSION

H. R. 979

To amend title II of the Social Security Act to expand current restrictions on payment of benefits to prisoners to include payments to individuals confined to public institutions pursuant to court order based on a verdict that the individual is not guilty of a criminal offense by reason of insanity or a similar finding.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. JACOBS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to expand current restrictions on payment of benefits to prisoners to include payments to individuals confined to public institutions pursuant to court order based on a verdict that the individual is not guilty of a criminal offense by reason of insanity or a similar finding.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. RESTRICTION ON PAYMENT OF BENEFITS TO
2 INDIVIDUALS CONFINED BY COURT ORDER
3 TO PUBLIC INSTITUTIONS PURSUANT TO
4 VERDICTS OF NOT GUILTY BY REASON OF IN-
5 SANITY OR OTHER MENTAL DISORDER.

6 Section 202(x) of the Social Security Act (42 U.S.C.
7 402(x)) is amended—

8 (1) in the heading, by inserting “and Certain
9 Other Inmates of Public Institutions” after “Pris-
10 oners”;

11 (2) in paragraph (1), by inserting “or is con-
12 fined in any public institution by a court order pur-
13 suant to a verdict that the individual is not guilty
14 of such an offense by reason of insanity (or by rea-
15 son of a similar finding, such as a mental disease,
16 a mental defect, or mental incompetence),” after
17 “applicable law,”; and

18 (3) in paragraph (3), by striking “any individ-
19 ual” and all that follows and inserting “any individ-
20 ual confined as described in paragraph (1) if the
21 jail, prison, penal institution, correctional facility, or
22 other public institution to which such individual is so
23 confined is under the jurisdiction of such agency and
24 the Secretary requires such information to carry out
25 the provisions of this section.”.

1 **SEC. 2. EFFECTIVE DATE.**

2 The amendments made by section 1 shall apply with
3 respect to benefits for months commencing after 90 days
4 after the date of the enactment of this Act.

○

(as so defined) paid after December 31, 1999, and so reported."

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended striking "(O) 1.20 per centum" and all that follows through "December 31, 1999," and inserting "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 2000, and (Q) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1983, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Secretary shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and
(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than December 31, 1995, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Secretary determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting "and Certain Other Inmates of Publicly Funded Institutions" after "Prisoners";

(2) in paragraph (1) by striking "during which such individual" and inserting "during which such individual—", and by striking "is confined" and all that follows and inserting the following:

"(A) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

"(B) is confined by court order in an institution at public expense in connection with—

"(i) a verdict that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

"(ii) a verdict that the individual is not guilty of such an offense by reason of insanity,

"(iii) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

"(iv) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence),

and, for purposes of this subparagraph, an individual so confined shall be treated as remaining so confined until he or she is unconditionally released from the care and supervision of such institution and such institution ceases to meet the individual's basic living needs."; and

(3) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Secretary requires such information to carry out the provisions of this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 226 of such Act (42 U.S.C. 426) is amended by adding at the end the following new subsection:

"(1) The requirements of subsections (a)(2) and (b)(2) shall not be treated as met with respect to any individual for any month if a monthly benefit to which such individual is entitled under section 202 or 223 for such month is not payable under section 202(x)."

(2) Section 226A of such Act (42 U.S.C. 426-1) is amended by adding at the end the following new subsection:

"(d) The requirements of subsection (a)(1) shall not be treated as met with respect to any individual for any month if a monthly benefit to which such individual is entitled under section 202 or 223 for such month is not payable under section 202(x)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act and with respect to items and services provided after such 90-day period.

The SPEAKER. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Kentucky [Mr. BUNNING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Ways and Means brings before the House today H.R. 4278, a bill simplifying and streamlining the payment of Social Security payroll taxes on domestic workers.

This bill will reform the so-called nanny tax to update an old law and to ease the paperwork burden on household employers. It will increase the number of employers who comply with the law and it will assure that more workers will receive much-needed protection under Social Security.

First, the Social Security tax threshold will be updated from \$50 a quarter to \$1,250 a year, beginning in 1995. In addition, the threshold will be indexed for the future. This threshold has not been updated since 1950, and, during those years, its value has declined.

No one ever intended that Americans be required to pay taxes on occasional

babysitters or yard workers. But that's what has happened over time. This bill will take care of that problem by exempting this type of occasional work from Social Security taxes. At the same time, it will protect full-time nannies and housekeepers by assuring that they receive Social Security coverage.

Second, the bill will reduce paperwork for employers by permitting them to file their employment taxes on their own annual 1040 forms. This simplification—coupled with the updating of the threshold—should result in a significant increase in compliance with the law and should therefore increase the number of people protected under Social Security.

The bill includes two other provisions. The first reallocates a small portion of the Social Security payroll tax from the retirement and survivors fund to the disability fund. About one-third of 1 percent of payroll would be reallocated between funds. The total payroll tax rate paid by individual taxpayers would not change.

The Social Security trustees have recommended this reallocation to assure the short-term solvency of the fund. Without it, the disability insurance fund would become insolvent in 1995.

Finally, the bill suspends Social Security payments to people who are ordered—by a court of law—to be institutionalized at public expense because they are found not guilty of a crime by reason of insanity.

This measure would result in significant savings for the Social Security trust fund and would assure that this legislation falls within the budget rules.

Mr. Speaker, the House acted responsibly last summer and passed a change in both the nanny tax and in the allocation of the trust funds.

At the insistence of the Senate, however, the House was forced to drop these provisions in conference—for procedural reasons. So we are here today to pass them again.

I strongly urge my colleagues to give this bill their full support and to send it on to the Senate for speedy action.

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure to be here. I would first like to acknowledge my esteemed colleagues The chairman of the Committee on Ways and Means, and particularly the chairman of the Social Security Subcommittee, for all of his efforts, including holding a separate and in depth hearing on each of the three issues in the bill that we are considering today. I appreciate his fairness and willingness to consider my views and those of other Members on my side.

The bill we are considering today contains three important provisions, all of which are long overdue in my estimation.

The first, a provision to fix the nanny tax problem, made famous by Zoe Baird—is in my view, just about 40 years overdue.

As anyone who has read a newspaper in the last year knows, domestic workers—many of whom work in private homes as housekeepers or nannies—have been covered under Social Security for almost 40 years, since 1955, as long as they earned at least \$50 in wages in a calendar quarter.

Back then \$50 was also the minimum amount that a worker had to earn in order to get any credit toward a Social Security benefit, and represented a week and a half's wage. But that \$50 amount was never indexed.

And so, while times have changed for all other employers and workers, domestic workers and the people who employ them have remained frozen in the 1950's.

Because this amount was never indexed, householders who occasionally hire teenage baby sitters and pay them more than \$50 a quarter, are technically in violation of the law for failing to report their wages to pay FICA taxes on them.

Congress never intended to make tax cheats out of law-abiding householders who occasionally hire a teenager to baby sit their children.

And then there is the issue of all the burdensome paperwork that a householder had to complete in order to pay FICA taxes on the wages of a domestic or nanny.

The bill we are considering today addresses all of these problems.

It raises this outdated \$50 wage threshold in a calendar quarter to \$1,250 paid in a year—enough to exempt most teenage baby sitters and lawn mowers.

I personally would have preferred a higher threshold amount—like the \$1,800 threshold that was stripped from last year's budget reconciliation bill.

But I also appreciate the need to protect Social Security entitlement for those who spend their lifetimes in domestic employment—many of whom are low-income women. \$1,250 is a reasonable middle ground.

The bill also allows householders who employ domestic workers to pay FICA taxes on their wages as part of their personal tax returns rather than have to complete all sorts of complicated additional paperwork.

The second provision seems to me to be something we need to do whether we like it or not. It would allow a transfer of funds from the Social Security retirement trust fund, which has enough money to last until 2036, to the disability trust fund, which will run out of money next year if we don't act now.

At the same time, however, I think we have to recognize that this transfer is just a Band-Aid. It is a temporary solution.

The administration has to take a serious look at why the disability program is in trouble and it has to act fast.

Congress voted the Social Security Administration extra money last year to process disability backlogs. We voted them \$200 million to get the job done, and now we find out that \$32 million of that was spent on pay increases and bonuses. This is outrageous and irresponsible.

Social Security Administration needs to get serious about clearing up the disability backlogs—they need to do something about disability reviews. They need to address these problems with the disability program before they hand out any more raises or bonuses.

The third provision is also overdue. Fourteen years ago, in 1980, Congress voted to prohibit payment of Social Security benefits to criminals like the Son of Sam, who are being completely supported at the taxpayers' expense as they serve out their time behind bars. The provision in their bill would likewise prohibit payment of benefits to those who have committed terrible crimes, but who are found not guilty by reason of insanity, and are institutionalized at taxpayers' expense instead of being imprisoned.

That is basically what this is all about. Nothing controversial. It is a commonsense approach to three issues which needed to be addressed. It deserves my colleagues support.

I thank the Chair for its attention to this important bill, and I look forward to its speedy passage.

□ 1220

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield the remainder of my time to the gentleman from Indiana [Mr. JACOBS], the chairman of the Subcommittee on Social Security, and I ask unanimous consent that the gentleman from Indiana [Mr. JACOBS] be authorized to yield time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Illinois?

There is no objection.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also thank the ranking member of the Committee on Ways and Means Social Security Subcommittee for his generous remarks, and in response, say that I have never had the pleasure of working with a more cooperative colleague in the Congress than I have the gentleman from Kentucky [Mr. BUNNING]. It takes two to work things out, and I am very grateful for that. I should also express for the record my gratitude to the gentleman from Massachusetts [Mr. TORKILDSEN] for his contribution to this legislation in clearing up a question of what is a felony and what is not a felony and who should be denied the Social Security benefits. His contribution has been enormous.

I incorporate by reference the remarks of the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and of the ranking member, the gentleman

from Kentucky [Mr. BUNNING]. They have described the proposed legislation well and the background of it.

A free society will not be civilized and will not be law-abiding in those instances in which the Government is negligent in terms of fairness of the law, and I confess for the Government that over the past half-century this Government has not forgotten to raise the threshold for any credit you might get for paying Social Security taxes, but in all that time has never raised the threshold for paying it, perhaps the best way to illustrate the ravages of inflation and what profound effects they can have on statutes.

I also incorporate by reference the phenomenon that happened in the earned income tax credit during the first few years of the 1980's when, in fact, it raised the taxes of the poorest working people in our society.

But one little anecdote I think would serve. When Speaker Joe Cannon was in office, or, rather, when he was elected Speaker for the first time, some of his friends explained to him that he had risen high on the social ladder in Washington, and he really ought to have a better place to live. So they took him out and they showed him a nice apartment that ran \$400 a month rent, and the Speaker replied, "It would be OK with me fellows. But what would I do with the other \$200 of my salary?" The congressional salary when he was Speaker of the House was \$5,000, which seems rather unreal today, although I am sure there are some people who are watching C-SPAN who think that would be too much even today even for Members of Congress. But I think most people have a practical knowledge of how inflation works, and this bill is meant to ameliorate that situation.

I commend all of my colleagues who have participated and will participate in this effort for the splendid way in which they have done it in response to the public.

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, certain issues that come before this body cry out for attention. Making sure that prisoners do not collect benefits while in jail is certainly one of them.

Convicted criminals in jail should not collect taxpayer-funded payments while there. Period.

But under a loophole in existing law, felons who are behind bars are denied Social Security benefits while convicts who are serving time for misdemeanors are allowed to continue receiving money. Because the definition of misdemeanor varies from State-to-State, this means some prisoners serving sentences in excess of 1 year continue to receive Federal money.

This defies logic.

While the taxpayers are paying to keep them in prison, prisoners should not receive any cash benefits.

The problem was highlighted in the Lawrence Eagle-Tribune, a newspaper that circulates in my district.

I propose simply that we cut off benefits to prisoners serving in prison. This simply makes sense.

Mr. Speaker, my proposed change has received bipartisan support in the subcommittee and the full committee, and I want to publicly thank the gentleman from Indiana and the gentleman from Kentucky for their assistance and also thank the gentleman from Indiana for his very kind words and support. This change has been partially included in this bill before the House today, and I hope my colleagues will also lend support.

There has been a lot of talk about welfare reform in the administration and by Members of this body. As we undertake this important task, there will no doubt be numerous areas of legitimate disagreement. However, there should be little room for disagreement on ending Social Security benefits for prisoners.

I urge my colleagues to support this important measure.

Mr. JACOBS, Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

(Mrs. KENNELLY asked and was given permission to revise and extend her remarks.)

Mrs. KENNELLY, Mr. Speaker, 1½ years ago, much of the Nation was made aware of a law which affects hundreds of thousands of people and has been broken by countless employers—the law regarding Social Security earnings for domestic employees, the so-called nanny tax.

Excellent choices for public service could not be made in part because of nominees' failures to fully comply with this law. Many people have discovered they have run afoul of this law, which has not been updated in more than 40 years.

Today, if you use a babysitter or someone to mow your lawn on a regular basis, you may have an obligation to pay Social Security taxes for them. And while it was never the intent of this law to pay this tax for your 12-year-old babysitter, the law is very much needed to protect the men and women who make their living at domestic work.

This law is not one that affects only a few high-profile people. This affects hundreds of thousands of domestic workers, their families, and their employers. When employers fail to pay this tax, workers who have multiple employers can find themselves ineligible for benefits even after a lifetime of work. That is not right. This is absolutely wrong.

Mr. Speaker, I want to thank today a member of the staff of Ways and Means, Sandy Wise, for being very aware of what was happening as we

were addressing this piece of legislation in knowing if we passed it in the wrong way many people who worked for multiple employers would lose their Social Security.

Last year, the Ways and Means Committee considered this issue in budget reconciliation. At that time, I was concerned that the \$1,750 threshold adopted by both the subcommittee and the full committee would have caused 300,000 people—40 percent of domestic workers—to lose eligibility for Social Security. Those most affected would have been women with multiple employers who work only once or twice each month for each employer. Those women could conceivably work fulltime and receive no credit for Social Security.

Last fall, I introduced a bill with Congresswoman MEEK and Congressman HOUGHTON to raise the threshold to \$1,000 per year. The \$1,200 threshold in this bill is a good compromise that reduces the administrative burden on employers of the occasional babysitter, or house cleaner while ensuring that workers receive the benefits they are due. This action is long overdue, and I urge my colleagues to support it.

I would like to thank Congresswoman MEEK and Congressman HOUGHTON for their perseverance in working with me to bring forth good legislation. I look forward to containing work with them on this issue.

□ 1230

Mr. BUNNING, Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS].

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS, Mr. Speaker, I thank my distinguished colleague, the gentleman from the Commonwealth of Kentucky, for yielding this time to me.

Mr. Speaker, I strongly support H.R. 4278, and commend the committee for its hard work. This bill contains several important provisions that are long overdue. The so-called nanny tax became a household topic over the last 15 months, when several high-profile administration appointees were disqualified from service because they had failed to comply with the law. Those cases raised public awareness that the existing law is sorely out of date and in need of review. Many of my colleagues offered proposals to update a 1950's provision in the law to reflect modern day realities. My bill, H.R. 929, would have increased the threshold requirement from the current \$50 limit to \$300 per quarter, for an annual earnings total of \$1,200. H.R. 4278 does virtually the same—making the annual threshold \$1,250. This legislation also limits Social Security benefits for the criminally insane, a provision that closes a current inequity in our system that bars incarcerated felons from receiving Social Security but allows criminally insane people living in mental institutions to continue to claim those bene-

fits. In effect, today we provide Social Security to the criminally insane while society is already paying for their housing and subsistence needs through mental institutions. Finally, this bill makes a technical change that will ensure continued funding of the gentleman from Social Security disability insurance fund—at least in the short term. Many Americans were stunned to learn recently that this fund is so strapped that it is heading for insolvency next year. This causes anxiety in my district. A report last month from the Social Security trustees delivered sobering news that SSDI and the other Social Security funds were in far worse shape and were becoming depleted at a much faster rate than had been predicted. As a member of the President's Bipartisan Commission of Entitlement Reform, I studied this report with alarm. Clearly, the current system is unsustainable. Today's action, although predominantly a stop-gap measure, at least buys us time until we can implement fair and effective changes to ensure the long-term solvency of Social Security. This is something we owe not only to today's retirees—but their children and grandchildren as well.

Mr. HOUGHTON, Mr. Speaker, I want to urge my fellow Members to support this legislation, H.R. 4278, to raise the threshold at which employers must start paying Social Security taxes for their domestic employees. The legislation is long overdue and will protect domestic employees while simplifying reporting requirements for employers.

As one of the originators of the bill, I want to emphasize that the bottom-line people issue is retirement coverage for domestic employees. Yes, there are other issues, such as the payment of income tax; although many of the employees probably have income below the minimum taxable amount. Also, the present filing requirements are numerous and burdensome. However, the overriding concern is to provide retirement coverage for domestic employees.

This bill is not complicated. It raises the threshold that triggers reporting of income to \$1,250 per year from the present \$50 a quarter. That was set during the Presidency of Mr. Truman. It ties this level to inflation. And it makes it easy for taxpayers to report openly, payments for domestic help, both to the Government and to the employees.

Employees should pay their share of income taxes. But the thrust of this new legislation is to bring those outside the Social Security system back under the umbrella—for their own ultimate protection.

We have been talking about this problem for over a year. It's time to make a change and pass this legislation.

Mrs. MEEK of Florida, Mr. Speaker, today is a happy day for me.

Almost 18 months ago, I introduced legislation to simplify and streamline the payment of employment taxes for domestic workers.

Today, after many twists and turns in the legislative process, the House is poised to pass our bill, H.R. 4278, the Social Security Act Amendments of 1994. Today, we can take a great leap forward in insuring fairness and economic justice for thousands of Americans

who work hard for low wages but who, by and large, have been denied the full benefits of their labor.

This issue has gotten a lot of attention over the past year because several prominent people—the employers of domestic workers—failed to pay Social Security taxes for their employees.

Some of these prominent people were denied appointments to power government posts as a consequence of their failure. They became objects of sympathy to some because of what they were forced to give up.

H.R. 4278 will make it easier for employers like these by simplifying and streamlining the payment of Social Security taxes for domestic workers and reducing their administrative burden.

But Mr. Speaker, to me the chief value of H.R. 4278 is that it will help the employees—the people who work in other peoples' homes. For this bill will insure that they receive the Social Security coverage to which they are entitled by law when they retire or become disabled.

I know well these mostly nameless and faceless people who clean houses, offer in-home child care or provide other services in the home. I was once a domestic worker myself. My mother was a domestic worker. All of my sisters were domestic workers.

Over the years, I have known many women who have worked hard for low pay in domestic jobs. They struggled to support their children and often managed, through great effort and self-denial, to save a little so that their children could have a better future. They are very often minority women, already among the most vulnerable in our society.

These are people who do not get their names in the paper, and until recently, they have been unrepresented in Congress. H.R. 4278 changes all of that.

H.R. 4278 will provide Social Security coverage for these household workers and will give them the security and peace of mind that most workers in this country take for granted.

I strongly urge my colleagues to support this bill.

Mr. Chairman, I want to recognize and thank the chairman of the House Ways and Means Committee, Representative DANNY ROSTENKOWSKI, and the chairman of the Senate Finance Committee, Senator MOYNIHAN, for their sensitivity to the plight of domestic workers and the key roles they have played in moving this legislation forward.

I would also like to thank the distinguished chairman of the subcommittee on Social Security, Mr. JACOBS, for his leadership on this issue, as well as my friends and colleagues, Representative BARBARA KENNELLY of Connecticut and Representative AMO HOUGHTON of New York, who have worked so hard in keeping this issue on the national agenda and getting us to where we are today.

Mr. BUNNING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JACOBS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill. H.R. 4278.

The question was taken.

Mr. JACOBS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1900

POSTPONEMENT OF VOTE ON H.R.
4278. SOCIAL SECURITY ACT
AMENDMENTS OF 1994

The SPEAKER pro tempore (Mr.
DEAL). Pursuant to clause 5(b) of rule I,
the Chair redesignates the time for fur-
ther proceedings on the motion to sus-
pend the rules and pass H.R. 4278 as
May 12, 1994.

question of suspending the rules and passing the bill, H.R. 4278.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSENKOWSKI] that the House suspend the rules and pass the bill, H.R. 4278, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 12, as follows:

[Roll No. 169]

YEAS—420

Abercrombie	Danner	Hefner
Ackerman	Darden	Hegger
Allard	de la Garza	Hilliard
Andrews (ME)	Deal	Hinches
Andrews (NJ)	DeFazio	Hobson
Andrews (TX)	DeLauro	Hochbrueckner
Applegate	DeLay	Hoekstra
Archer	Dellums	Hoke
Armey	Derrick	Holden
Bacchus (FL)	Deutch	Horn
Bacchus (AL)	Diaz-Balart	Houghton
Baesler	Dickey	Hoyer
Baker (CA)	Dicks	Huffington
Baker (LA)	Dingell	Hughes
Ballester	Dixon	Hunter
Barca	Dooley	Hutchinson
Barcia	Doolittle	Hutto
Barlow	Dornan	Hyde
Barrett (NE)	Dreier	Inglis
Barrett (WI)	Duncan	Inhofe
Bartlett	Dunn	Inalee
Barton	Durbin	Istook
Bateman	Edwards (CA)	Jacobs
Bellenson	Edwards (TX)	Jefferson
Bentley	Ehlers	Johnson (CT)
Bereuter	Emerson	Johnson (GA)
Berman	Engel	Johnson (SD)
Bevill	English	Johnson, E. B.
Bilbray	Eshoo	Johnson, Sam
Bilirakis	Evans	Johnston
Bishop	Everett	Kanjoraki
Bliley	Ewing	Kaptar
Blute	Farr	Kasich
Boehlert	Fawell	Kennedy
Boehner	Fazio	Kennelly
Bonilla	Fields (LA)	Kildee
Bonior	Fields (TX)	Kim
Boraki	Filner	King
Boucher	Fingerhut	Kingston
Brewster	Fish	Klecza
Brooks	Foglietta	Klein
Browder	Ford (MD)	Klink
Brown (CA)	Ford (TN)	Klug
Brown (FL)	Fowler	Knollenberg
Brown (OH)	Frank (MA)	Kolbe
Bryant	Franks (CT)	Kopetski
Bunning	Franks (NJ)	Kreidler
Burton	Frost	Kyl
Buyer	Furse	LaFalce
Byrne	Gallely	Lambert
Callahan	Gallo	Lancaster
Calvert	Gejdenson	Lantos
Camp	Ocas	LaRocco
Canady	Cephardt	Laughlin
Cantwell	Geran	Lazio
Cardin	Gibbons	Leach
Carr	Gilchrest	Lehman
Castle	Gillmor	Levin
Chapman	Gilman	Levy
Clay	Gingrich	Lewis (CA)
Clayton	Glickman	Lewis (FL)
Clement	Gonzalez	Lightfoot
Clinger	Goodlatte	Linder
Clyburn	Goodling	Lipinski
Coble	Gordon	Livingston
Coleman	Goss	Lloyd
Collins (GA)	Grams	Long
Collins (IL)	Green	Lowe
Collins (MI)	Greenwood	Machtley
Combest	Gunderwon	Maloney
Condit	Hall (OH)	Mann
Conyers	Hall (TX)	Manton
Cooper	Hamburg	Manzullo
Copperamith	Hamilton	Marqolies-
Costello	Hancock	Mervinsky
Cox	Hansen	Markey
Coyne	Harman	Martinez
Cramer	Hastert	Matsui
Craze	Hastings	Mazzoli
Crapo	Hayes	McCandless
Cunningham	Hefley	McCloskey

□ 1420

SOCIAL SECURITY ACT
AMENDMENTS OF 1994

The SPEAKER pro tempore (Mr. BONIOR). The unfinished business is the

McCollum	Portman	Spratt
McCrery	Poehard	Stark
McCurdy	Price (NC)	Stearns
McDade	Pryce (OH)	Stenholm
McDermott	Quillen	Stokes
McHale	Quinn	Strickland
McHugh	Rahall	Studds
McInnis	Ramstad	Stump
McKeon	Rangel	Stupak
McKinney	Ravensel	Sundquist
McMillan	Reed	Swett
McNulty	Regula	Swift
Meehan	Reynolds	Synar
Meek	Richardson	Talent
Menendez	Roberts	Tanner
Meyers	Roemer	Tauzin
Mfume	Rogers	Taylor (MS)
Mica	Rohrabacher	Taylor (NC)
Michel	Ros-Lehtinen	Tejeda
Miller (CA)	Rose	Thomas (CA)
Miller (FL)	Rostenkowski	Thomas (WY)
Mineta	Roth	Thompson
Minge	Roukema	Thornton
Mink	Rowland	Thurman
Moakley	Roybal-Allard	Torkildsen
Molinari	Royce	Torres
Mollohan	Rush	Torricelli
Montgomery	Sabo	Towns
Moorhead	Sanders	Trafigant
Moran	Sangmeister	Tucker
Morella	Santorum	Unsoeld
Murphy	Sarpalius	Upton
Murtha	Sawyer	Valentine
Myers	Saxton	Velazquez
Nadler	Schaefer	Vento
Neal (MA)	Schenk	Visclosky
Neal (NC)	Schiff	Volkmer
Nussle	Schroeder	Vucanovich
Oberstar	Schumer	Walker
Obey	Scott	Walsh
Oliver	Sensenbrenner	Washington
Ortiz	Serrano	Waters
Orton	Shaw	Watt
Owens	Shays	Waxman
Oxley	Shepherd	Weldon
Packard	Shuster	Wheat
Pallone	Sisiaky	Williams
Pastor	Skaggs	Wilson
Paxon	Skeen	Wise
Payne (NJ)	Skelton	Wolf
Payne (VA)	Slattery	Woolsey
Pelosi	Slaughter	Wyden
Penny	Smith (IA)	Wynn
Peterson (FL)	Smith (MT)	Yates
Peterson (MN)	Smith (NJ)	Young (AK)
Petri	Smith (OR)	Young (FL)
Pickett	Smith (TX)	Zeliff
Pickle	Snowe	Zimmer
Pombo	Solomon	
Pomeroy	Spence	

NOT VOTING—12

Becerra	Gutierrez	Porter
Blackwell	Hoagland	Ridge
Flake	Lewis (GA)	Sharp
Grandy	Parker	Whitten

□ 1442

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**SOCIAL SECURITY ACT
AMENDMENTS OF 1994**

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

The Clerk read as follows:

H.R. 4278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Act Amendments of 1994".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) RETURNS WITH RESPECT TO DOMESTIC SERVICE EMPLOYMENT TAXES shall be made on a calendar year basis.

"(2) ANY SUCH RETURN FOR ANY CALENDAR YEAR shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) NO REQUIREMENT TO MAKE DEPOSITS (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1994, the amount referred to in clause (i) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) ANY TAXES IMPOSED BY CHAPTER 21 OR 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) ANY AMOUNT WITHHELD FROM SUCH REMUNERATION PURSUANT TO AN AGREEMENT under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3308(j)(1).

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

(b) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

"(B) CASH REMUNERATION PAID BY AN EMPLOYER IN ANY CALENDAR YEAR TO AN EMPLOYEE FOR DOMESTIC SERVICE IN A PRIVATE HOME OF THE EMPLOYER (within the meaning of subsection (y)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year."

(B) Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For purposes of subsection (a)(7)(B)—

"(1) EXCLUSION FOR CERTAIN FARM SERVICE.—The term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5).

"(2) APPLICABLE DOLLAR THRESHOLD.—The term 'applicable dollar threshold' means \$1,250. In the case of calendar years after 1995, the Secretary of Health and Human Services shall adjust such \$1,250 amount at the same time and in the same manner as under section 215(a)(1)(B)(i) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(i)(ii) of such Act. If the amount determined under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50."

(C) The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "\$50" and inserting "the applicable dollar threshold (as defined in section 3121(y)(2)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) CASH REMUNERATION PAID BY AN EMPLOYER IN ANY CALENDAR YEAR TO AN EMPLOYEE FOR DOMESTIC SERVICE IN A PRIVATE HOME OF THE EMPLOYER, IF THE CASH REMUNERATION PAID IN SUCH YEAR BY THE EMPLOYER TO THE EMPLOYEE FOR SUCH SERVICE IS LESS THAN THE APPLICABLE DOLLAR THRESHOLD (as defined in section 3121(y)(2) of the Internal Revenue Code of 1986) for such year. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) RELIEF FROM LIABILITY FOR CERTAIN UNDERPAYMENT AMOUNTS.—

(A) IN GENERAL.—On and after the date of the enactment of this Act, an underpayment to which this paragraph applies (and any penalty, addition to tax, and interest with respect to such underpayment) shall not be assessed (or, if assessed, shall not be collected).

(B) UNDERPAYMENTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to an underpayment to the extent of the amount thereof which would not be an underpayment if—

(i) the amendments made by paragraph (1) had applied to calendar years 1993 and 1994, and

(ii)(I) the applicable dollar threshold for calendar year 1993 were \$1,150, and

(II) the applicable dollar threshold for calendar year 1994 were \$1,200.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999, and so reported," and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 2000, and so reported, and (Q) 1.80 per centum of the wages

Calendar No. 431

103^D CONGRESS
2^D SESSION**H. R. 4278**

IN THE SENATE OF THE UNITED STATES

MAY 16, 1994

Received

MAY 19 (legislative day, MAY 16), 1994

Read twice and placed on the calendar

AN ACT

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Social Security Act
5 Amendments of 1994".

1 **SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON**
2 **DOMESTIC SERVICES.**

3 (a) COORDINATION OF COLLECTION OF DOMESTIC
4 SERVICE EMPLOYMENT WITH COLLECTION OF INCOME
5 TAXES.—

6 (1) IN GENERAL.—Chapter 25 of the Internal
7 Revenue Code of 1986 (relating to general provi-
8 sions relating to employment taxes) is amended by
9 adding at the end thereof the following new section:

10 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**
11 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**
12 **TION OF INCOME TAXES.**

13 “(a) GENERAL RULE.—Except as otherwise provided
14 in this section—

15 “(1) returns with respect to domestic service
16 employment taxes shall be made on a calendar year
17 basis,

18 “(2) any such return for any calendar year
19 shall be filed on or before the 15th day of the fourth
20 month following the close of the employer’s taxable
21 year which begins in such calendar year, and

22 “(3) no requirement to make deposits (or to
23 pay installments under section 6157) shall apply
24 with respect to such taxes.

25 “(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-
26 JECT TO ESTIMATED TAX PROVISIONS.—

1 “(1) IN GENERAL.—Solely for purposes of sec-
2 tion 6654, domestic service employment taxes im-
3 posed with respect to any calendar year shall be
4 treated as a tax imposed by chapter 2 for the tax-
5 able year of the employer which begins in such cal-
6 endar year.

7 “(2) ANNUALIZATION.—Under regulations pre-
8 scribed by the Secretary, appropriate adjustments
9 shall be made in the application of section
10 6654(d)(2) in respect of the amount treated as tax
11 under paragraph (1).

12 “(3) TRANSITIONAL RULE.—For purposes of
13 applying section 6654 to a taxable year beginning in
14 1994, the amount referred to in clause (ii) of section
15 6654(d)(1)(B) shall be increased by 90 percent of
16 the amount treated as tax under paragraph (1) for
17 such taxable year.

18 “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—
19 For purposes of this section, the term ‘domestic service
20 employment taxes’ means—

21 “(1) any taxes imposed by chapter 21 or 23 on
22 remuneration paid for domestic service in a private
23 home of the employer, and

1 “(2) any amount withheld from such remunera-
2 tion pursuant to an agreement under section
3 3402(p).

4 For purposes of this subsection, the term ‘domestic service
5 in a private home of the employer’ does not include service
6 described in section 3121(g)(5).

7 “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR
8 OTHER EMPLOYMENT TAXES.—To the extent provided in
9 regulations prescribed by the Secretary, this section shall
10 not apply to any employer for any calendar year if such
11 employer is liable for any tax under this subtitle with re-
12 spect to remuneration for services other than domestic
13 service in a private home of the employer.

14 “(e) GENERAL REGULATORY AUTHORITY.—The Sec-
15 retary shall prescribe such regulations as may be nec-
16 essary or appropriate to carry out the purposes of this
17 section. Such regulations may treat domestic service em-
18 ployment taxes as taxes imposed by chapter 1 for purposes
19 of coordinating the assessment and collection of such em-
20 ployment taxes with the assessment and collection of do-
21 mestic employers’ income taxes.

22 “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO
23 COLLECT STATE UNEMPLOYMENT TAXES.—

24 “(1) IN GENERAL.—The Secretary is hereby
25 authorized to enter into an agreement with any

1 State to collect, as the agent of such State, such
2 State's unemployment taxes imposed on remunera-
3 tion paid for domestic service in a private home of
4 the employer. Any taxes to be collected by the Sec-
5 retary pursuant to such an agreement shall be treat-
6 ed as domestic service employment taxes for pur-
7 poses of this section.

8 “(2) TRANSFERS TO STATE ACCOUNT.—Any
9 amount collected under an agreement referred to in
10 paragraph (1) shall be transferred by the Secretary
11 to the account of the State in the Unemployment
12 Trust Fund.

13 “(3) SUBTITLE F MADE APPLICABLE.—For
14 purposes of subtitle F, any amount required to be
15 collected under an agreement under paragraph (1)
16 shall be treated as a tax imposed by chapter 23.

17 “(4) STATE.—For purposes of this subsection,
18 the term ‘State’ has the meaning given such term by
19 section 3306(j)(1).”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 25 of such Code is amended by
22 adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to remuneration paid

1 in calendar years beginning after December 31,
2 1994.

3 (4) EXPANDED INFORMATION TO EMPLOY-
4 ERS.—The Secretary of the Treasury or his delegate
5 shall prepare and make available information on the
6 Federal tax obligations of employers with respect to
7 employees performing domestic service in a private
8 home of the employer. Such information shall also
9 include a statement that such employers may have
10 obligations with respect to such employees under
11 State laws relating to unemployment insurance and
12 workers compensation.

13 (b) THRESHOLD REQUIREMENT FOR SOCIAL SECU-
14 RITY TAXES.—

15 (1) AMENDMENTS OF INTERNAL REVENUE
16 CODE.—

17 (A) Subparagraph (B) of section
18 3121(a)(7) of the Internal Revenue Code of
19 1986 (defining wages) is amended to read as
20 follows:

21 “(B) cash remuneration paid by an em-
22 ployer in any calendar year to an employee for
23 domestic service in a private home of the em-
24 ployer (within the meaning of subsection (y)), if
25 the cash remuneration paid in such year by the

1 employer to the employee for such service is less
2 than the applicable dollar threshold (as defined
3 in subsection (y)) for such year;”.

4 (B) Section 3121 of such Code is amended
5 by adding at the end thereof the following new
6 subsection:

7 “(y) DOMESTIC SERVICE IN A PRIVATE HOME.—For
8 purposes of subsection (a)(7)(B)—

9 “(1) EXCLUSION FOR CERTAIN FARM SERV-
10 ICE.—The term ‘domestic service in a private home
11 of the employer’ does not include service described
12 in subsection (g)(5).

13 “(2) APPLICABLE DOLLAR THRESHOLD.—The
14 term ‘applicable dollar threshold’ means \$1,250. In
15 the case of calendar years after 1995, the Secretary
16 of Health and Human Services shall adjust such
17 \$1,250 amount at the same time and in the same
18 manner as under section 215(a)(1)(B)(ii) of the So-
19 cial Security Act with respect to the amounts re-
20 ferred to in section 215(a)(1)(B)(i) of such Act, ex-
21 cept that, for purposes of this paragraph, 1993 shall
22 be substituted for the calendar year referred to in
23 section 215(a)(1)(B)(ii)(II) of such Act. If the
24 amount determined under the preceding sentence is

1 not a multiple of \$50, such amount shall be rounded
2 to the nearest multiple of \$50.”.

3 (C) The second sentence of section 3102(a)
4 of such Code is amended—

5 (i) by striking “calendar quarter”
6 each place it appears and inserting “cal-
7 endar year”, and

8 (ii) by striking “\$50” and inserting
9 “the applicable dollar threshold (as defined
10 in section 3121(y)(2)) for such year”.

11 (2) AMENDMENT OF SOCIAL SECURITY ACT.—

12 Subparagraph (B) of section 209(a)(6) of the Social
13 Security Act (42 U.S.C. 409(a)(6)(B)) is amended
14 to read as follows:

15 “(B) Cash remuneration paid by an employer in
16 any calendar year to an employee for domestic serv-
17 ice in a private home of the employer, if the cash re-
18 munerations paid in such year by the employer to the
19 employee for such service is less than the applicable
20 dollar threshold (as defined in section 3121(y)(2) of
21 the Internal Revenue Code of 1986) for such year.
22 As used in this subparagraph, the term ‘domestic
23 service in a private home of the employer’ does not
24 include service described in section 210(f)(5).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to remuneration paid
3 in calendar years beginning after December 31,
4 1994.

5 (4) RELIEF FROM LIABILITY FOR CERTAIN
6 UNDERPAYMENT AMOUNTS.—

7 (A) IN GENERAL.—On and after the date
8 of the enactment of this Act, an underpayment
9 to which this paragraph applies (and any pen-
10 alty, addition to tax, and interest with respect
11 to such underpayment) shall not be assessed
12 (or, if assessed, shall not be collected).

13 (B) UNDERPAYMENTS TO WHICH PARA-
14 GRAPH APPLIES.—This paragraph shall apply
15 to an underpayment to the extent of the
16 amount thereof which would not be an
17 underpayment if—

18 (i) the amendments made by para-
19 graph (1) had applied to calendar years
20 1993 and 1994, and

21 (ii)(I) the applicable dollar threshold
22 for calendar year 1993 were \$1,150, and

23 (II) the applicable dollar threshold for
24 calendar year 1994 were \$1,200.

1 **SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE**
2 **TRUST FUND.**

3 (a) **ALLOCATION WITH RESPECT TO WAGES.**—Sec-
4 tion 201(b)(1) of the Social Security Act (42 U.S.C.
5 401(b)(1)) is amended by striking “(O) 1.20 per centum”
6 and all that follows through “December 31, 1999, and so
7 reported,” and inserting “(O) 1.20 per centum of the
8 wages (as so defined) paid after December 31, 1989, and
9 before January 1, 1994, and so reported, (P) 1.88 per
10 centum of the wages (as so defined) paid after December
11 31, 1993, and before January 1, 2000, and so reported,
12 and (Q) 1.80 per centum of the wages (as so defined) paid
13 after December 31, 1999, and so reported,”.

14 (b) **ALLOCATION WITH RESPECT TO SELF-EMPLOY-**
15 **MENT INCOME.**—Section 201(b)(2) of such Act (42 U.S.C.
16 401(b)(2)) is amended striking “(O) 1.20 per centum”
17 and all that follows through “December 31, 1999,” and
18 inserting “(O) 1.20 per centum of the amount of self-em-
19 ployment income (as so defined) so reported for any tax-
20 able year beginning after December 31, 1989, and before
21 January 1, 1994, (P) 1.88 per centum of the amount of
22 self-employment income (as so defined) so reported for
23 any taxable year beginning after December 31, 1993, and
24 before January 1, 2000, and (Q) 1.80 per centum of the
25 amount of self-employment income (as so defined) so re-

1 ported for any taxable year beginning after December 31,
2 1999.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to wages paid after
5 December 31, 1993, and self-employment income for tax-
6 able years beginning after such date.

7 (d) STUDY ON RISING COSTS OF DISABILITY BENE-
8 FITS.—

9 (1) IN GENERAL.—As soon as practicable after
10 the date of the enactment of this Act, the Secretary
11 of Health and Human Services shall conduct a com-
12 prehensive study of the reasons for rising costs pay-
13 able from the Federal Disability Insurance Trust
14 Fund.

15 (2) MATTERS TO BE INCLUDED IN STUDY.—In
16 conducting the study under this subsection, the Sec-
17 retary shall—

18 (A) determine the relative importance of
19 the following factors in increasing the costs
20 payable from the Trust Fund:

21 (i) increased numbers of applications
22 for benefits;

23 (ii) higher rates of benefit allowances;

24 and

1 (iii) decreased rates of benefit termi-
2 nations; and

3 (B) identify, to the extent possible, under-
4 lying social, economic, demographic, pro-
5 grammatic, and other trends responsible for
6 changes in disability benefit applications, allow-
7 ances, and terminations.

8 (3) REPORT.—Not later than December 31,
9 1995, the Secretary shall transmit a report to the
10 Committee on Ways and Means of the House of
11 Representatives and the Committee on Finance of
12 the Senate setting forth the results of the study con-
13 ducted under this subsection, together with any rec-
14 ommendations for legislative changes which the
15 Secretary determines appropriate.

16 **SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED IN-**
17 **DIVIDUALS AND INDIVIDUALS CONFINED IN**
18 **CRIMINAL CASES PURSUANT TO CONVICTION**
19 **OR BY COURT ORDER BASED ON FINDINGS**
20 **OF INSANITY.**

21 (a) IN GENERAL.—Section 202(x) of the Social Secu-
22 rity Act (42 U.S.C. 402(x)) is amended—

23 (1) in the heading, by inserting “and Certain
24 Other Inmates of Publicly Funded Institutions”
25 after “Prisoners”;

1 (2) in paragraph (1) by striking “during which
2 such individual” and inserting “during which such
3 individual—”, and by striking “is confined” and all
4 that follows and inserting the following:

5 “(A) is confined in a jail, prison, or other penal
6 institution or correctional facility pursuant to his
7 conviction of an offense punishable by imprisonment
8 for more than 1 year (regardless of the actual sen-
9 tence imposed), or

10 “(B) is confined by court order in an institution
11 at public expense in connection with—

12 “(i) a verdict that the individual is guilty
13 but insane, with respect to an offense punish-
14 able by imprisonment for more than 1 year,

15 “(ii) a verdict that the individual is not
16 guilty of such an offense by reason of insanity,

17 “(iii) a finding that such individual is in-
18 competent to stand trial under an allegation of
19 such an offense, or

20 “(iv) a similar verdict or finding with re-
21 spect to such an offense based on similar fac-
22 tors (such as a mental disease, a mental defect,
23 or mental incompetence),

24 and, for purposes of this subparagraph, an individ-
25 ual so confined shall be treated as remaining so con-

1 fined until he or she is unconditionally released from
2 the care and supervision of such institution and such
3 institution ceases to meet the individual's basic liv-
4 ing needs.”; and

5 (3) in paragraph (3), by striking “any individ-
6 ual” and all that follows and inserting “any individ-
7 ual who is confined as described in paragraph (1) if
8 the confinement is under the jurisdiction of such
9 agency and the Secretary requires such information
10 to carry out the provisions of this section.”..

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 226 of such Act (42 U.S.C. 426) is
13 amended by adding at the end the following new
14 subsection:

15 “(i) The requirements of subsections (a)(2) and
16 (b)(2) shall not be treated as met with respect to any indi-
17 vidual for any month if a monthly benefit to which such
18 individual is entitled under section 202 or 223 for such
19 month is not payable under section 202(x).”.

20 (2) Section 226A of such Act (42 U.S.C. 426-
21 1) is amended by adding at the end the following
22 new subsection:

23 “(d) The requirements of subsection (a)(1) shall not
24 be treated as met with respect to any individual for any
25 month if a monthly benefit to which such individual is en-

1 titled under section 202 or 223 for such month is not pay-
2 able under section 202(x).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to benefits for months
5 commencing after 90 days after the date of the enactment
6 of this Act and with respect to items and services provided
7 after such 90-day period.

Passed the House of Representatives May 12, 1994.

Attest: DONNALD K. ANDERSON,
Clerk.

Calendar No. 431

**103^D CONGRESS
2^D SESSION**

H. R. 4278

AN ACT

**To make improvements in the old-age, survivors,
and disability insurance program under title II of
the Social Security Act.**

MAY 19 (legislative day, MAY 16), 1994

Read twice and placed on the calendar

APPOINTMENT OF CONFEREES ON
H.R. 4278. SOCIAL SECURITY ACT
AMENDMENTS OF 1994

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4278) to make improvements in the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

□ 1550

The SPEAKER pro tempore (Mr. CLEMENT). Is there objection to the request of the gentleman from Indiana? The Chair hears none, and, without objection, appoints the following conferees: Messrs. GIBBONS, ROSTENKOWSKI, PICKLE, JACOBS, FORD of Tennessee, ARCHER, BUNNING, and SANTORUM.

There was no objection.

By Mr. MOYNIHAN (for himself,
Mr. DOLE, Mr. BOREN, Mr. WAL-
LOP, Mr. GRASSLEY, and Mr.
CHAFEE):

S. 1231. A bill to provide for sim-
plified collection of employment taxes
on domestic services, and for other pur-
poses; to the Committee on Finance.

SOCIAL SECURITY DOMESTIC EMPLOYMENT
REFORM ACT OF 1993

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Social Security Domestic Employment Reform Act of 1993. It is the aim of this bill to simplify the requirements regarding the payment of Social Security taxes for domestic employees, and to improve Social Security coverage for such workers.

Specifically, the purpose of the bill is threefold. First, it would update and increase the wage threshold used since the Eisenhower administration to determine whether an employer must pay Social Security taxes on wages paid to domestic employees. Second, it would replace the current requirements for quarterly filing of such taxes with a simplified annual reporting procedure, through the IRS form 1040, in order to improve public awareness of the requirements and compliance with them. Finally, this legislation would exempt from Social Security taxes the wages paid to domestic workers under the age of 18.

Mr. President, as recent events have shown, these changes are long overdue. It appears that many people are unaware of their responsibility to pay Social Security taxes for domestic employees. This fact has been highlighted by problems in this area for some nominees for high Government office in the present administration.

Currently, an employer is required to pay Social Security taxes if he or she pays a domestic employee \$50 or more in a calendar quarter. When this threshold was adopted, an employer paying the minimum wage could easily employ a housekeeper each week without reporting these wages. Today, it is possible to exceed the \$50 test by occasionally hiring a neighborhood teenager to babysit or to mow the lawn. As a result, many citizens find themselves liable for reports and tax payments on the small sums paid for occasional domestic services.

The \$50 per quarter threshold for domestic employees was adopted in 1954. At that time, \$50 in wages was needed under the Social Security Act to be credited with a quarter of coverage. A quarter of coverage is, in a sense, the unit of measure used to determine eligibility for Social Security benefits. For example, 40 quarters of coverage is generally what is required now to qualify for retirement benefits. This year a worker must earn \$590 to be credited with a quarter of coverage, and can earn a maximum of four in a year. This amount is indexed to rise with average

wages. In 1954, the requirement or a quarter of coverage and the coverage test for domestic employees were the same. My proposal would restore this historic relationship.

Under this proposal, the threshold in 1994 would be an estimated \$610, depending on the indexed increase in the amount required for a quarter of coverage. This test is significantly lower than other proposals that are under consideration, yet it is higher than the \$300 test that was included in H.R. 11, the revenue bill of 1992, which was vetoed last November. I believe that a \$610 coverage test strikes a reasonable balance between the desire to provide Social Security coverage to domestic employees, while at the same time relieving private citizens of the burden of reporting the small sums paid for occasional domestic services.

In addition, this bill would simplify reporting by eliminating the current requirement that employers make quarterly reports of wages paid to domestic employees and quarterly tax payments. Instead, employers would report the wages of domestic employees only once each year, when they file their personal income tax returns. Use of the 1040 for this purpose should improve public awareness of the rules in this area, increase the number of employers who comply with these requirements, and provide increased Social Security coverage for domestic workers. Currently, the Internal Revenue Service estimates that only 25 percent of the employers who are required to do so actually report the wages they have paid to their domestic employees.

Finally, this legislation would relieve employers entirely of the responsibility of reporting wages paid to teenagers under age 18 for any domestic services they perform, such as babysitting and lawn care.

Mr. President, it is important that those workers who perform domestic services get the Social Security coverage they deserve. It is also important that we make employers aware of their legal obligations in this regard. For the information of Senators, the Finance Committee will be holding hearings on this issue in the near future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Domestic Employment Reform Act of 1993".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue

Code of 1986 (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (other than service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (y)) for such year:"

(B) APPLICABLE DOLLAR THRESHOLD.—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(y) APPLICABLE DOLLAR THRESHOLD.—For purposes of subsection (a)(7)(B), the term 'applicable dollar threshold' means the amount required for a quarter of coverage as determined under section 213(d)(2) of the Social Security Act for calendar year 1994. In the case of calendar years after 1994, the Secretary of Health and Human Services shall adjust such amount at the same time and in the same manner as the amount under section 213(d)(2) of the Social Security Act, except that such adjustment shall not take effect in any year in which the otherwise adjusted amount does not exceed the amount in effect under this subsection for the preceding calendar year by at least \$50."

(C) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 3121(b) of such Code (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(11) by striking the period at the end of paragraph (20) and inserting "; or", and

(111) by adding at the end the following new paragraph:

"(2) domestic service in a private home of the employer performed in any year by an individual under the age of 18 during any portion of such year."

(D) CONFORMING AMENDMENTS.—The second sentence of section 3102(a) of such Code is amended—

(1) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(11) by striking "\$50" and inserting "the applicable dollar threshold (as defined in section 3121(y)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) GENERAL RULE.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (other than service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(y) of the Internal Revenue Code of 1986) for such year:"

(B) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(1) by striking "or" at the end of paragraph (19),

(11) by striking the period at the end of paragraph (20) and inserting "; or", and

(111) by adding at the end the following new paragraph:

"(2) domestic service in a private home of the employer performed in any year by an individual under the age of 18 during any portion of such year."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the 4th month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) SPECIAL RULE WHERE TAXES ARE PAID ON OR BEFORE APRIL 15.—If, on or before the date described in subsection (a)(2) or, if earlier, the date the return is filed, the employer pays in full the domestic service employment taxes computed on such return as payable for any calendar year, then no addition to tax shall be imposed under section 6654(a) with respect to any underpayment of any required installment of such taxes for the taxable year beginning in such calendar year.

"(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1994, the amount referred to in clause (1) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such preceding taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes

with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1).

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1993.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT
OF 1994

APRIL 19 (legislative day, APRIL 11), 1994.—Ordered to be printed

Mr. MOYNIHAN, from the Committee on Finance,
submitted the following

REPORT

[To accompany S.1231]

The Committee on Finance, to which was referred the bill (S. 1231), a bill to provide for simplified collection of employment taxes on domestic employment, and for other purposes, having considered the same, reports favorably thereon, with amendment, and recommends that the bill do pass.

I. PURPOSE AND SCOPE

The Committee bill improves Social Security coverage for domestic workers and simplifies payment of taxes on their behalf by: updating and increasing the wage threshold used since 1951 to determine whether the employer must pay Social Security taxes on wages paid to domestic employees; replacing the current requirements for quarterly filing of such taxes with a simplified annual reporting procedure, through the IRS form 1040; and exempting from Social Security taxes the wages paid to domestic workers under the age of 18. Finally, the bill includes three provisions aimed at improving the integrity of the Social Security and Supplemental Security Income programs.

II. BACKGROUND ON COVERAGE OF DOMESTIC EMPLOYEES

Social Security coverage was not extended to domestic employees when the Congress enacted the Social Security Act in 1935. The first Social Security Advisory Council, which was convened in 1938, recommended that coverage be extended to many of the major groups of uncovered workers, including domestic workers. However, the Social Security Amendments of 1939 did not extend coverage to domestic employees. Both the Committee on Ways and Means and the Committee on Finance expressed reservations in their re-

spective reports that it "would be unwise" to extend coverage to these workers at that time.

Domestic workers were first covered by the Social Security Amendments of 1950, which were effective beginning in 1951. This legislation provided that domestic workers would be covered only if they earned at least \$50 in a quarter and were regularly employed, which was defined as working for an employer for some portion of each of at least 24 days in a quarter. In its report, the Committee on Finance noted that employees in domestic service, "whose need for the protection of social insurance is very great," would generally be covered if they were "regular" workers, hired on a weekly or monthly basis, while casual or intermittent workers would be excluded. The \$50 limit was chosen because it was similar to the one that applied to home workers (people who work in their own home) and because it was the amount workers then needed to earn to receive a "quarter of coverage." A quarter of coverage is the unit of measure used to determine eligibility for Social Security benefits.

In 1954, the Congress removed the 24-day rule, leaving just the \$50-per-quarter test. In the Social Security Amendments of 1977, the Congress changed the rules regarding the amount of earnings required for a quarter of coverage, replacing the \$50-per-quarter rule with one that, beginning in 1978, granted one quarter of coverage for each \$250 of annual earnings, up to a limit of four in any year. The 1977 Amendments also provided that the amount required for a quarter of coverage would increase with the growth of average wages in the National economy, so that, in 1994, that amount had risen to \$620, and is projected to be \$630 in 1995. However, the 1977 Amendments made no change in the \$50-per-quarter coverage threshold for domestic workers.

In response to concerns over low compliance with reporting requirements—estimates indicate that fewer than one in four employers of domestic workers report wages paid to these employees—the Committee on Finance included a provision in H.R. 11, the Revenue Act of 1992, to increase the coverage threshold for domestic employees to \$300 per year and to require individuals who hire household employees to report any Social Security or Federal unemployment tax obligation on his or her income tax return for the year. However, the provision was not enacted because the bill was vetoed by the President. In 1993, the House-passed Omnibus Budget Reconciliation Act of 1993 (H.R. 2264) included a similar provision. However, it was dropped in conference because of procedural rules against consideration of Social Security measures on reconciliation legislation.

On July 21, 1993, the Committee on Finance held a hearing on S. 1231.

Representative Carrie Meek, of Florida, speaking in support of the coverage threshold proposed in S. 1231, stated:

We need to encourage better compliance with the law, not provide tax relief for employers. Too much lip service is paid to the needs of the working poor and there is not enough action on their behalf. A worker in this system who works day work and often gets paid to clean houses every 2 weeks for several

employers, would have a very hard time reaching a very high [coverage] threshold.

Mr. Randolph H. Hardock, speaking on behalf of the Department of the Treasury, testified that the simplification of the procedures used to report wages paid to domestic employees that were included in S. 1231 would help increase compliance with the reporting requirements. Mr. Hardock commented with respect to S. 1231:

In the aggregate, this change would eliminate the need for an estimated 1.4 million quarterly Forms 942 that are filed each year by household employers. It would also potentially reduce the number of filings of State unemployment forms.

In addition to the simplification of reporting and payment of employment taxes that would be achieved by the bill, the Department also believes that these changes could have positive compliance effects. Including these amounts on annual income tax returns will increase household employers' awareness of their employment tax obligations and remove compliance barriers by eliminating the complications of quarterly reporting and payment.

Mr. Robert J. Myers, former Chief Actuary of the Social Security Administration, testified that the result of enacting S. 1231 "would be to provide reasonable Social Security protection for this category of workers, while at the same time greatly reducing the administrative burden on the employer involved." He also said that, as a result of this bill, "Coverage compliance would be greatly improved."

Representatives for the National Council of Senior Citizens, the Older Women's League, and the National Women's Law Center also testified in favor of S. 1231.

III. EXPLANATION OF PROVISIONS

Section 2—Simplification of employment taxes on domestic services

Present law

Individuals who hire domestic employees, such as babysitters, housekeepers, and yard workers, are required to withhold and pay employment taxes when the worker's wages equal or exceed certain thresholds. (Individuals who hire independent contractors to provide domestic services are excluded from these requirements.) For Social Security, the wage threshold is reached, generally, when an employer pays \$50 or more per quarter to a domestic employee. However, wages paid to domestic employees hired by farm operators are subject to the thresholds that are used for determining coverage for agricultural employees. For these employees, the wage threshold is reached if either (1) the farm operator's total farm payroll for a year is \$2,500 or more or (2) the wages paid to an employee in a year are \$150 or more. (This latter test applies only if the farm operator's total payroll for a year is less than \$2,500.) For Federal unemployment insurance, the threshold is reached when an employer pays \$1,000 or more in a calendar quarter to one or more individuals employed as domestics.

When the \$50 threshold is reached, the employer must file a quarterly report (form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both the em-

ployer and the employee. (The employer may pay the employee's share of the Social Security tax in lieu of withholding it from the employee's wages.) The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (form W-2) at the end of the year. When the \$1,000 FUTA threshold is reached in any calendar quarter, the employer must file a report (form 940) with the IRS at the end of the year. Employers who owe more than \$100 in FUTA tax at the end of a calendar quarter must deposit the amount due by the end of the following month.

In addition, employers of domestic workers must file and pay State unemployment insurance tax in each quarter in which the State unemployment insurance wage threshold (equal to the \$1,000 FUTA Federal threshold in 45 States) is reached.

Committee provision

The Committee provision:

Raises the threshold for withholding and paying Social Security taxes on domestic workers, including those employed by farm operators, to an annual threshold equal to the amount required for one Social Security quarter of coverage (\$620 in 1994, estimated to be \$630 in 1995), indexed in future years to increases in average wages;

Exempts from Social Security taxes any wages paid to a worker for domestic services performed in any year during which the worker is under age 18;

Eliminates the requirement for quarterly reporting of wages paid to domestic workers; allows employers of domestic workers to report on a calendar-year basis any Social Security obligations for wages paid to these workers; and authorizes the Secretary of the Treasury to revise Federal form 1040 to enable such employers to report both Social Security and Federal unemployment taxes on their annual Federal income tax returns;

Exempts wages paid to domestic employees from estimated tax payment requirements, thereby enabling employers of domestics to pay the applicable payroll taxes in a single payment at the same time that they file their annual income tax returns without payment of penalties and interest;

Authorizes the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above; and

Requires the Secretary of the Treasury to provide to employers of employees performing domestic services a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

The Committee notes that the Social Security Act includes a number of other coverage thresholds that are not automatically increased and that have remained unchanged for many years. The Committee believes that the Secretary of Health and Human Services, jointly with the Secretary of the Treasury, should study the effect of these thresholds on both compliance with reporting requirements and Social Security coverage for workers, and report

their findings to the Committee, along with any recommendations for change.

Effective date

The provision applies to remuneration paid and, with respect to domestic employees under age 18, services performed in calendar years beginning after December 31, 1994.

Section 3—Additional debt collection procedures

Present law

Under current law, certain debt collection procedures are available for use by most Federal agencies. Included in the law are provisions enabling Federal agencies to recover debts owed to them by offsetting other Federal payments to which the debtor may be entitled (called “administrative offset”); to report delinquent debtors to credit reporting agencies; and to contract with private debt collection agencies to recover delinquent debt. However, under current law, the Social Security Administration (SSA) is prohibited from using these three debt collection procedures.

Committee provision

As recommended by the National Performance Review (the Gore Report), SSA is authorized to use certain procedures that are available to other Federal agencies, including use of administrative offset, reporting delinquent debtors to credit reporting agencies, and contracting with private debt collection agencies.

These procedures will be available for use only for the purpose of recovering delinquent debt owed by former Old-Age, Survivors and Disability Insurance beneficiaries who were paid benefits not due, and would be used only after SSA’s current debt collection procedures are unsuccessful in recovering the past-due debts. The provisions will not apply to debts owed by former Social Security childhood beneficiaries who were overpaid while they were under age 18 and while receiving benefits through a parent or other representative payee. The Committee provision does not affect a beneficiary’s right to appeal a decision concerning an overpayment or to request waiver of the overpaid amount.

The Committee bill directs the Secretary of Health and Human Services to issue regulations defining unrecoverable debt. It is the Committee’s view that it would be inappropriate for these regulations to provide for reference to the referral of debts to credit bureaus or debt collection agencies in the initial overpayment notice sent to a Social Security beneficiary.

Effective date

This provision is effective with respect to debt collection activities undertaken by SSA on or after enactment and through September 30, 1999.

Section 4—Prohibition on payment of benefits to certain individuals confined by court order to public institutions

Present law

Generally, Social Security benefits may not be paid to any individual who is confined in a penal institution pursuant to a felony conviction. Under this provision, benefits to other family members continue to be paid. However, there is no provision that restricts payment of Social Security benefits to individuals confined to public institutions pursuant to verdicts related to felony offenses for which the individual was found to be not guilty by reason of insanity.

Committee provision

Payment of any Social Security benefit payable under title II of the Social Security Act will be suspended for any individual while confined in any public institution, if the individual has been found to be guilty of a felony offense but insane, or not guilty of a felony offense by reason of insanity or other similar disorder. Federal or State agencies having jurisdiction over institutions where such individuals are confined will be required to furnish such information as the Secretary of Health and Human Services may require to carry out this provision.

The Committee believes that successful administration of this provision depends on timely reports from State and Federal institutions of the admission of Social Security beneficiaries so that SSA can suspend benefits promptly. Accordingly, the Committee recommends that HHS require, and institutions provide *monthly* reports to SSA of all admissions of Social Security beneficiaries who are confined pursuant to verdicts or findings described in this provision.

Effective date

The provision applies with respect to benefits for months commencing after 90 days after enactment.

Section 5—Nursing homes required to report admissions of SSI recipients

Present law

Supplemental Security Income recipients, or their representative payees, are required to report any change in the recipient's status (e.g., income, resources, living arrangements) that may affect the amount of benefits to which the recipient is entitled. Generally, when an SSI recipient enters a nursing home for an extended period, and payment for the recipient's care is being provided by Medicaid, the amount of the recipient's SSI benefit is reduced to no more than \$30 per month, beginning with the first full month of residence. Because nursing home admissions are not always reported promptly to the Social Security Administration, some SSI recipients receive more SSI benefits than they are entitled to in the months following their admission.

Committee provision

Nursing home administrators will be required to report to SSA the admission of any SSI recipient within two weeks of the recipient's admission, so that SSA can make timely adjustment in the amount of the recipient's SSI benefit.

Effective date

The provision is effective for admissions to nursing homes occurring on or after October 1, 1995.

IV. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the following evaluation is made concerning the regulatory impact of carrying out the changes proposed in the Committee bill:

Individuals and businesses affected

The Committee bill will reduce the burden on employers of domestic employees by eliminating the requirement that wages paid to these employees be reported, and payroll taxes owed be paid on a quarterly basis. Instead, reports and payments will be made only once a year, when the employer files his or her annual income tax return.

Economic impact of regulations on individuals, consumers, and businesses

Regulations resulting from the Committee bill will have a favorable impact on individuals by increasing coverage of domestic employees and reducing the number of reports that are required by employers who hire domestic employees. The bill requires nursing homes and other long-care treatment facilities to report the admission of Supplemental Security Income recipients to the Social Security Administration.

Impact on personal privacy

The Committee bill is not expected to affect personal privacy.

Amount of additional paperwork

The Committee bill would reduce the amount of paperwork required by employers who hire domestic employees. However, the Committee bill would increase reporting requirements for nursing homes and other long-care treatment facilities.

V. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with paragraph 7 of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the Committee to report the bill:

The bill was ordered favorably reported by voice vote.

VI. BUDGETARY IMPACT OF THE BILL

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate and with sections 308 and 403 of the Congressional Budget Act, the Committee includes the following report

prepared by the Congressional Budget Office on the budget effects of this bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1994.

Hon. Daniel Patrick Moynihan,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed revised cost estimate for S. 1231, the Social Security Employment Reform Act of 1994, as ordered reported by the Senate Committee on Finance on March 22, 1994. The bill would change the manner in which employment taxes are paid for domestic service workers, extend authority to the Social Security Administration (SSA) to use certain debt procedures, prohibit the payment of Social Security benefits for certain individuals confined by court order to mental health facilities, and require nursing homes to report SSA admissions of SSI recipients within 15 days of the admission.

The estimate for S. 1231 has been revised to reflect a change in the effective date of one provision. The Finance Committee staff provided new legislative language on April 14, 1994, to correct a drafting error in the language that had been previously supplied to CBO.

Enactment of S. 1231 would affect direct spending or receipts and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
for ROBERT D. REISCHAUER, *Director*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S 1231.
2. Bill title: Social Security Employment Reform Act of 1994.
3. Bill status: As ordered reported by the Committee on Finance March 22, 1994.
4. Bill purpose: To provide for a simplified collection of employment taxes on domestic employment, and for other purposes.
5. Estimated cost to the Federal Government:

FEDERAL GOVERNMENT COSTS

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
Revenues:					
On-budget	-72	14	15	15	16
Off-budget	-184	22	23	23	24
Total	-256	36	38	38	40
Direct Spending:					
On-budget	0	-8	-8	-9	-9
Off-budget	-33	-28	-25	-25	-25

FEDERAL GOVERNMENT COSTS—Continued

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
Total	-39	-36	-33	-34	-34
Deficit:					
On-budget	72	-22	-23	-24	-25
Off-budget	151	-50	-48	-48	-49
Total	223	-72	-71	-72	-74

The costs of this bill fall within budget function 650.

Basis of estimate

S. 1231 modifies the Social Security and Medicare payroll taxes related to the employment of domestic workers, extends authority for the Social Security Administration (SSA) to use certain debt collection procedures, restricts payments for persons committed to mental health facilities for criminal behavior, and requires nursing homes to report any admissions of Supplemental Security Income (SSI) recipients to SSA within 15 days. The estimated impacts of S. 1231 are based on an assumed enactment date of September 30, 1994.

Section 2. Simplification of Employment Taxes on Domestic Services. Under current law, employers are required to pay Social Security and Medicare payroll taxes for persons providing domestic services—for example, babysitting, lawn and garden care, snow shoveling, and similar tasks—if the employee earns more than \$50 in wages during a calendar quarter. S. 1231 changes the quarterly amount of \$50 to a calendar year level projected to equal \$620 in 1995. The annual amount is the wage required to earn a quarter of Social Security coverage for 1995. In future years, the domestic earnings threshold would increase by earnings growth, except that no increase would occur if it would be less than \$50.

In addition to the change in the minimum earnings that has to be reported, S. 1231 would also allow employers to pay these payroll taxes at the same time as they file their income taxes. This change would also apply to Federal Unemployment Tax Act (FUTA) payments made by employers of domestic workers.

According to estimates provided by the Joint Committee on Taxation (JCT), these changes would cause a revenue loss of \$256 million dollars in 1995 but would increase revenues each subsequent year, with a net 5-year revenue loss of \$104 million. The on-budget effects—Medicare and income taxes—are \$72 million in lost revenues in 1995 and \$12 million over the 1995–1999 period.

Because the increased earnings threshold would exempt some wages earned by domestic service workers, S. 1231 could potentially reduce the Social Security benefits to which these workers might later become entitled. The CBO expects these reduced benefits to have negligible outlay effects, however.

FEDERAL BUDGET EFFECTS BY SECTION

(By fiscal years, in millions of dollars)

	1995	1996	1997	1998	1999
Sec. 2. Domestic employment taxes					
On-budget revenues ¹	-72	14	15	15	16
Off-budget revenues ¹	-184	22	23	23	24
Total revenues	-256	36	38	38	40
Sec. 3. Debt collection procedures					
Off-budget	-25	-18	-14	-14	-14
Sec. 4. Restrict payments for beneficiaries confined pursuant to a finding of not guilty by reason of insanity					
Off-budget	-8	-10	-11	-11	-11
Sec. 5. Require nursing homes to report admissions of SSI recipients within 15 days					
On-budget (SSI)	0	-8	-8	-9	-9

¹ Estimates provided by the Joint Committee on Taxation

Section 3. Additional Debt Collection Practices. Under current law, the Social Security Administration (SSA) is prohibited from using all of the debt collection tools available to most federal agencies. S. 1231 would allow SSA to report to the credit bureaus the outstanding debts owed by former beneficiaries and to refer collection of their debts to private collection agencies. The bill would exempt overpayments made to minor children.

This provision is estimated to result in additional recoveries of \$25 million in 1995 and \$85 million over the 1995–1999 period. This estimate is based on data provided by SSA on its outstanding debts (about \$660 million of which about \$450 million is actively being pursued by SSA) and its current recovery rate on its delinquent debt. The exclusion of minor children is assumed to reduce this debt by 30 percent. SSA estimates that its recovery rate is around 7 percent to 8 percent and that private collection agencies recover about 22 percent. The CBO assumes that the additional collections should increase the recovery rate by about 7 percentage points by 1999. The relatively large recovery amount in 1995 reflects the referral of outstanding debts, including many older debts, to private collection services.

Section 4. Prohibition on Payment of Benefits to Certain Individuals Confined by Court Order to Public Institutions. Under current law, persons convicted of felonies are not allowed to receive Social Security disability benefits while in prison. S. 1231 would extend this treatment to persons confined by court order to mental health facilities following a finding of not guilty by reason of insanity (NGRI) or of guilty but insane.

The restriction on benefits for the NGRI cases is estimated to reduce Social Security benefit payments by \$8 million in 1995 and by \$51 million over the 1995–1999 period. The estimate is based on three studies, two of which were not directed toward the issue of how many Social Security recipients are confined under NGRI determination, but rather were directed toward the use of the NGRI plea. A Department of Health and Human Services report from the Inspector General's (IG) office in 1987 found that 26 percent of the mental disorder detainees in state forensic hospitals were Social Security recipients. This percentage, when applied to all mental disorder detainees, translated into 2,162 beneficiaries in 1985. In contrast, a study by Henry J. Steadman using data from a 1978

survey of states found that the average number of NGRI detainees was 3,140. Combining this with the IG's finding that 38 percent of NGRI detainees received Social Security benefits would yield about 1,190 recipients.

Because these data are out-of-date, it is difficult to know how to apply these results to the current Social Security beneficiary population. While the use of the NGRI plea has declined over the past 15 years and the mentally-impaired institutionalized population has also plummeted, the sentencing of NGRI detainees has become stricter and the proportion of the Social Security disabled population diagnosed with mental disorders has risen significantly. The estimated savings from this section of S. 1231 is based on the assumption that 1,500 NGRI detainees would be affected. Using the average benefit figure from the IG's report and inflating it to 1995 results in annual benefit savings of \$6,760 per detainee.

Section 5. Require Nursing Homes to Report Admissions of SSI Recipients. S. 1231 would require that nursing homes report admissions of SSI recipients to the Social Security Administration within 15 days of the admission. There is currently no reporting requirement. According to a 1992 report from the IG's office of DHHS, the primary responsibility for reporting nursing home admissions falls on the SSI beneficiary, although SSA tries to encourage the nursing homes to report these admissions on a voluntary basis.

The 15-day reporting requirement, which would become effective on October 1, 1995, is expected to save \$34 million over the five-year estimating period.

6. Pay-as-you-go considerations: The pay-as-you-go effects of the bill are as follows:

(By fiscal years, in millions of dollars)

	1995	1996	1997	1998
Receipts	-72	14	15	15
Outlays	0	-8	-8	-9

The on-budget (including Medicare) revenue and outlay changes have an impact on the scorecard. The Social Security revenue and benefit changes are exempt from the pay-as-you-go rules.

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO estimate: An estimate of S. 1231 was provided to the Senate Committee on Finance on April 14, 1994. The estimate has been revised to reflect a change in the effective date of one provision. New legislative language was provided by the committee to correct a drafting error in the language previously supplied to CBO.

10. Estimate prepared by: Paul Cullinan and Patrick Purcell.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Calendar No. 415

103^D CONGRESS
2^D SESSION**S. 1231**

[Report No. 103-252]

To provide for simplified collection of employment taxes on domestic services,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14 (legislative day, JUNE 30), 1993

Mr. MOYNIHAN (for himself, Mr. DOLE, Mr. BOREN, Mr. WALLOP, Mr. GRASSLEY, Mr. CHAFEE, Mr. BREAUX, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. MATHEWS, Mr. MITCHELL, Mr. CONRAD, Mr. RIEGLE, Mr. HATCH, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Finance

APRIL 19 (legislative day, APRIL 11), 1994

Reported by Mr. MOYNIHAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To provide for simplified collection of employment taxes on
domestic services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Social Security Domes-
3 tic Employment Reform Act of ~~1993~~ 1994”.

4 SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DO-
5 MESTIC SERVICES.

6 (a) THRESHOLD REQUIREMENT FOR SOCIAL SECUR-
7 RITY TAXES.—

8 (1) AMENDMENTS OF INTERNAL REVENUE
9 CODE.—

10 (A) GENERAL RULE.—Subparagraph (B)
11 of section 3121(a)(7) of the Internal Revenue
12 Code of 1986 (defining wages) is amended to
13 read as follows:

14 “(B) cash remuneration paid by an em-
15 ployer in any calendar year to an employee for
16 domestic service in a private home of the em-
17 ployer (~~other than service including domestic~~
18 *service* described in subsection (g)(5)), if the
19 cash remuneration paid in such year by the em-
20 ployer to the employee for such service is less
21 than the applicable dollar threshold (as defined
22 in subsection (y x)) for such year;”.

23 (B) APPLICABLE DOLLAR THRESHOLD.—
24 Section 3121 of such Code is amended by add-
25 ing at the end thereof the following new sub-
26 section:

1 “(y x) APPLICABLE DOLLAR THRESHOLD.—For pur-
 2 poses of subsection (a)(7)(B), the term ‘applicable dollar
 3 threshold’ means the amount required for a quarter of cov-
 4 erage as determined under section 213(d)(2) of the Social
 5 Security Act for calendar year ~~1994~~ 1995. In the case of
 6 calendar years after ~~1994~~ 1995, the Secretary of Health
 7 and Human Services shall adjust such amount at the same
 8 time and in the same manner as the amount under section
 9 213(d)(2) of the Social Security Act, except that such ad-
 10 justment shall not take effect in any year in which the
 11 otherwise adjusted amount does not exceed the amount
 12 in effect under this subsection for the preceding calendar
 13 year by at least \$50.”

14 (C) EMPLOYMENT OF DOMESTIC EMPLOY-
 15 EES UNDER AGE 18 EXCLUDED FROM COV-
 16 ERAGE.—Section 3121(b) of such Code (defin-
 17 ing employment) is amended—

18 (i) by striking “or” at the end of
 19 paragraph (19),

20 (ii) by striking the period at the end
 21 of paragraph (20) and inserting “; or”,
 22 and

23 (iii) by adding at the end the follow-
 24 ing new paragraph:

1 “(21) domestic service in a private home of the
2 employer performed in any year by an individual
3 under the age of 18 during any portion of such
4 year.”.

5 (D) CONFORMING AMENDMENTS.—The
6 second sentence of section 3102(a) of such
7 Code is amended—

8 (i) by striking “calendar quarter”
9 each place it appears and inserting “cal-
10 endar year”, and

11 (ii) by striking “\$50” and inserting
12 “the applicable dollar threshold (as defined
13 in section 3121(~~y~~ x)) for such year”.

14 (2) AMENDMENT OF SOCIAL SECURITY ACT.—

15 (A) GENERAL RULE.—Subparagraph (B)
16 of section 209(a)(6) of the Social Security Act
17 (42 U.S.C. 409(a)(6)(B)) is amended to read as
18 follows:

19 “(B) Cash remuneration paid by an employer in
20 any calendar year to an employee for domestic serv-
21 ice in a private home of the employer (~~other than~~
22 ~~service including domestic service~~ described in sub-
23 ~~section (g)(5)~~ section 210(f)(5)), if the cash remu-
24 neration paid in such year by the employer to the
25 employee for such service is less than the applicable

1 dollar threshold (as defined in section 3121(y x) of
2 the Internal Revenue Code of 1986) for such year;”.

3 (B) EMPLOYMENT OF DOMESTIC EMPLOY-
4 EES UNDER AGE 18 EXCLUDED FROM COV-
5 ERAGE.—Section 210(a) of such Act (42 U.S.C.
6 410(a)) is amended—

7 (i) by striking “or” at the end of
8 paragraph (19),

9 (ii) by striking the period at the end
10 of paragraph (20) and inserting “; or”,
11 and

12 (iii) by adding at the end the follow-
13 ing new paragraph:

14 “(21) ~~domestic~~ *Domestic* service in a private
15 home of the employer performed in any year by an
16 individual under the age of 18 during any portion of
17 such year.”.

18 ~~(3) EFFECTIVE DATE.—The amendments made~~
19 ~~by this subsection shall apply to remuneration paid~~
20 ~~in calendar years beginning after December 31,~~
21 ~~1993.~~

22 (3) *EFFECTIVE DATES.*—

23 (A) *IN GENERAL.*—*Except as provided in*
24 *subparagraph (B), the amendments made by this*
25 *subsection shall apply to remuneration paid in*

1 *calendar years beginning after December 31,*
 2 *1994.*

3 *(B) EXCLUDED EMPLOYMENT.—The amend-*
 4 *ments made by paragraphs (1)(C) and (2)(B)*
 5 *shall apply to services performed after December*
 6 *31, 1994.*

7 (b) COORDINATION OF COLLECTION OF DOMESTIC
 8 SERVICE EMPLOYMENT WITH COLLECTION OF INCOME
 9 TAXES.—

10 (1) IN GENERAL.—Chapter 25 of the Internal
 11 Revenue Code of 1986 (relating to general provi-
 12 sions relating to employment taxes) is amended by
 13 adding at the end thereof the following new section:

14 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**
 15 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**
 16 **TION OF INCOME TAXES.**

17 “(a) GENERAL RULE.—Except as otherwise provided
 18 in this section—

19 “(1) returns with respect to domestic service
 20 employment taxes shall be made on a calendar year
 21 basis,

22 “(2) any such return for any calendar year
 23 shall be filed on or before the 15th day of the 4th
 24 month following the close of the employer’s taxable
 25 year which begins in such calendar year, and

1 “(3) no requirement to make deposits (or to
2 pay installments under section 6157) shall apply
3 with respect to such taxes.

4 “(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-
5 JECT TO ESTIMATED TAX PROVISIONS.—

6 “(1) IN GENERAL.—Solely for purposes of sec-
7 tion 6654, domestic service employment taxes im-
8 posed with respect to any calendar year shall be
9 treated as a tax imposed by chapter 2 for the tax-
10 able year of the employer which begins in such cal-
11 endar year.

12 “(2) SPECIAL RULE WHERE TAXES ARE PAID
13 ON OR BEFORE APRIL 15.—If, on or before the date
14 described in subsection (a)(2) or, if earlier, the date
15 the return is filed, the employer pays in full the do-
16 mestic service employment taxes computed on such
17 return as payable for any calendar year, then no ad-
18 dition to tax shall be imposed under section 6654(a)
19 with respect to any underpayment of any required
20 installment of such taxes for the taxable year begin-
21 ning in such calendar year.

22 “(3) ANNUALIZATION.—Under regulations pre-
23 scribed by the Secretary, appropriate adjustments
24 shall be made in the application of section

1 6654(d)(2) in respect of the amount treated as tax
2 under paragraph (1).

3 “(4) TRANSITIONAL RULE.—For purposes of
4 applying section 6654 to a taxable year beginning in
5 ~~1994~~ 1995, the amount referred to in clause (ii) of
6 section 6654(d)(1)(B) shall be increased by 90 per-
7 cent of the amount treated as tax under paragraph
8 (1) for such preceding taxable year.

9 “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—
10 For purposes of this section, the term ‘domestic service
11 employment taxes’ means—

12 “(1) any taxes imposed by chapter 21 or 23 on
13 remuneration paid for domestic service in a private
14 home of the employer, and

15 “(2) any amount withheld from such remunera-
16 tion pursuant to an agreement under section
17 3402(p).

18 For purposes of this subsection, the term ‘domestic service
19 in a private home of the employer’ ~~does not include service~~
20 *includes domestic service* described in section 3121(g)(5).

21 “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR
22 OTHER EMPLOYMENT TAXES.—To the extent provided in
23 regulations prescribed by the Secretary, this section shall
24 not apply to any employer for any calendar year if such
25 employer is liable for any tax under this subtitle with re-

1 spect to remuneration for services other than domestic
2 service in a private home of the employer.

3 “(e) GENERAL REGULATORY AUTHORITY.—The Sec-
4 retary shall prescribe such regulations as may be nec-
5 essary or appropriate to carry out the purposes of this
6 section. Such regulations may treat domestic service em-
7 ployment taxes as taxes imposed by chapter 1 for purposes
8 of coordinating the assessment and collection of such em-
9 ployment taxes with the assessment and collection of do-
10 mestic employers’ income taxes.

11 “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO
12 COLLECT STATE UNEMPLOYMENT TAXES.—

13 “(1) IN GENERAL.—The Secretary is hereby
14 authorized to enter into an agreement with any
15 State to collect, as the agent of such State, such
16 State’s unemployment taxes imposed on remunera-
17 tion paid for domestic service in a private home of
18 the employer. Any taxes to be collected by the Sec-
19 retary pursuant to such an agreement shall be treat-
20 ed as domestic service employment taxes for pur-
21 poses of this section.

22 “(2) TRANSFERS TO STATE ACCOUNT.—Any
23 amount collected under an agreement referred to in
24 paragraph (1) shall be transferred by the Secretary

1 to the account of the State in the Unemployment
2 Trust Fund.

3 “(3) SUBTITLE F MADE APPLICABLE.—For
4 purposes of subtitle F, any amount required to be
5 collected under an agreement under paragraph (1)
6 shall be treated as a tax imposed by chapter 23.

7 “(4) STATE.—For purposes of this subsection,
8 the term ‘State’ has the meaning given such term by
9 section 3306(j)(1).”

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for chapter 25 of such Code is amended by
12 adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes.”

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to remuneration paid
15 in calendar years beginning after December 31,
16 ~~1993~~ 1994.

17 (4) EXPANDED INFORMATION TO EMPLOY-
18 ERS.—The Secretary of the Treasury or his delegate
19 shall prepare and make available information on the
20 Federal tax obligations of employers with respect to
21 employees performing domestic service in a private
22 home of the employer. Such information shall also
23 include a statement that such employers may have
24 obligations with respect to such employees under

1 State laws relating to unemployment insurance and
2 workers compensation.

3 **SEC. 3. ADDITIONAL DEBT COLLECTION PRACTICES.**

4 (a) *IN GENERAL.*—Section 204 of the Social Security
5 Act (42 U.S.C. 404) is amended by adding at the end the
6 following new subsection:

7 “(f)(1) With respect to any delinquent amount, the
8 Secretary may use the collection practices described in sec-
9 tions 3711(f), 3716, and 3718 of title 31, United States
10 Code, as in effect on April 1, 1994.

11 “(2) For purposes of paragraph (1), the term ‘delin-
12 quent amount’ means an amount—

13 “(A) in excess of the correct amount of payment
14 under this title;

15 “(B) paid to a person after such person has at-
16 tained 18 years of age; and

17 “(C) determined by the Secretary, under regula-
18 tions, to be otherwise unrecoverable under this section
19 after such person ceases to be a beneficiary under this
20 title.”.

21 (b) *CONFORMING AMENDMENT.*—Section 3701(d) of
22 title 31, United States Code, is amended by inserting
23 “, except to the extent provided under section 204(f) of such
24 Act (42 U.S.C. 404(f)),” after “the Social Security Act (42
25 U.S.C. 301 et seq.)”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to collection activities begun on or after*
3 *the date of the enactment of this Act and before October*
4 *1, 1999.*

5 **SEC. 4. PROHIBITION ON PAYMENT OF BENEFITS TO CER-**
6 **TAIN INDIVIDUALS CONFINED BY COURT**
7 **ORDER TO PUBLIC INSTITUTIONS.**

8 (a) *IN GENERAL.*—*Section 202(x)(1) of the Social Se-*
9 *curity Act (42 U.S.C. 402(x)(1)) is amended—*

10 (1) *by inserting “(A)” after “(1)”, and*

11 (2) *by adding at the end the following new sub-*
12 *paragraph:*

13 “(B) *Notwithstanding any other provision of this title,*
14 *no monthly benefits shall be paid under this section or*
15 *under section 223 to any individual for any month during*
16 *which such individual is confined in any public institution*
17 *by a court order pursuant to a verdict or finding that the*
18 *individual is—*

19 “(i) *guilty of an offense described in subpara-*
20 *graph (A), but insane (or having a similar condition,*
21 *such as a mental disease, a mental defect, or mental*
22 *incompetence); or*

23 “(ii) *not guilty of such an offense by reason of*
24 *insanity (or by reason of a similar finding, such as*

1 *a mental disease, a mental defect, or mental incom-*
2 *petence).”.*

3 **(b) CONFORMING AMENDMENTS.—**

4 (1) *Section 202(x)(3) of the Social Security Act*
5 *(42 U.S.C. 402(x)(3)) is amended by striking “any*
6 *individual” and all that follows and inserting “any*
7 *individual confined as described in paragraph (1) if*
8 *the jail, prison, penal institution, correctional facil-*
9 *ity, or other public institution to which such individ-*
10 *ual is so confined is under the jurisdiction of such*
11 *agency and the Secretary requires such information*
12 *to carry out the provisions of this section.”.*

13 (2) *The heading for section 202(x) of such Act is*
14 *amended by inserting “and Certain Other Inmates of*
15 *Public Institutions” after “Prisoners”.*

16 **(c) EFFECTIVE DATE.—***The amendments made by this*
17 *section shall apply with respect to benefits for months com-*
18 *mencing after 90 days after the date of the enactment of*
19 *this Act.*

20 **SEC. 5. NURSING HOMES REQUIRED TO REPORT ADMIS-**
21 **SIONS OF SSI RECIPIENTS.**

22 (a) **IN GENERAL.—***Section 1631(e)(1) (42 U.S.C.*
23 *1383(e)(1)) is amended by adding at the end the following*
24 *new subparagraph:*

1 “(C) For purposes of making determinations under
2 section 1611(e), the requirements prescribed by the Sec-
3 retary pursuant to subparagraph (A) shall require each ad-
4 ministrator of a nursing home, extended care facility, or
5 intermediate care facility to report to the Secretary of the
6 admission of any eligible individual or eligible spouse
7 receiving benefits under this title within 2 weeks of such
8 admission.”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
10 section (a) shall apply to admissions occurring on or after
11 October 1, 1995.

Calendar No. 415

**103D CONGRESS
2D SESSION**

S. 1231

[Report No. 103-252]

A BILL

**To provide for simplified collection of employment
taxes on domestic services, and for other purposes.**

APRIL 19 (legislative day, APRIL 11), 1994

Report with amendments

THE SOCIAL SECURITY ACT
AMENDMENTS OF 1994

Mr. MOYNIHAN. Mr. President. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 431, H.R. 4278, the Social Security Act Amendments bill, and that all after the enacting clause be stricken and the text of calendar 415, S. 1231, the Social Security Domestic Employment Reform Act of 1994 be inserted in lieu thereof, the bill be read a third time and passed, the motion to reconsider laid upon the table, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees; that the preceding all occur without intervening action or debate, and that any statements thereon appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, I shall not object. I want the RECORD to reflect Senator PACKWOOD, the ranking Republican on the Finance Committee, supports the action taken

by the chairman as do I and every other Republican on this side.

Mr. MOYNIHAN. As does, if I may say, Mr. President, a unanimous Finance Committee which reported out the measure which we have just proposed as a substitute. It was completely bipartisan—nonpartisan. Every Republican member voted for it. Every Democratic member did. We are proud of it. Not to extend this debate, but I would like to make the point that 45 years ago the United States Congress decided that cleaning women should be eligible for Social Security. Forty-five years later, only 25 percent of households with domestic workers report wages paid to these employees. And this is simply not acceptable.

We found an arrangement, user friendly arrangement where the payments are to be made on 1040's once a year. We do not turn housewives into accountants. But we want to have people who are entitled to their Social Security get it when they need it. Our provision—we have an amendment—our provision simply provides that when you earn the amount of money that entitles you to one quarter of coverage, that amount is paid, and when you acquired 40 quarters of coverage you are vested in Social Security.

I thank the majority leader, who voted for this, the Republican leader, who voted for this, and say we are very pleased that this matter, long overdue, is now about to be done.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4278) was read the third time and passed as follows:

Resolved, That the bill from the House of Representatives (H.R. 4278) entitled "An Act to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Domestic Employment Reform Act of 1994".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (z)) for such year."

(B) APPLICABLE DOLLAR THRESHOLD.—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(z) APPLICABLE DOLLAR THRESHOLD.—For purposes of subsection (a)(7)(B), the term 'applicable dollar threshold' means the amount required for a quarter of coverage as determined under section 213(d)(2) of the Social Security Act for calendar year 1995. In the case of calendar years after 1995, the Secretary of Health and Human Services shall adjust such amount at the same time and in the same manner as the amount under section 213(d)(2) of the Social Security Act, except that such adjustment shall not take effect in any year in which the otherwise adjusted amount does not exceed the amount in effect under this subsection for the preceding calendar year by at least \$50."

(C) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 3121(b) of such Code (defining employment) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) domestic service in a private home of the employer performed in any year by an individual under the age of 18 during any portion of such year."

(D) CONFORMING AMENDMENTS.—The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "\$50" and inserting "the applicable dollar threshold (as defined in section 3121(z)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) GENERAL RULE.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(z) of the Internal Revenue Code of 1986) for such year."

(B) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) Domestic service in a private home of the employer performed in any year by an individual under the age of 18 during any portion of such year."

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the 4th month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) SPECIAL RULE WHERE TAXES ARE PAID ON OR BEFORE APRIL 15.—If, on or before the date described in subsection (a)(2) or, if earlier, the date the return is filed, the employer pays in full the domestic service employment taxes computed on such return as payable for any calendar year, then no addition to tax shall be imposed under section 6654(a) with respect to any underpayment of any required installment of such taxes for the taxable year beginning in such calendar year.

"(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1995, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such preceding taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph

(1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or his delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

"(f)(1) With respect to any delinquent amount, the Secretary may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on April 1, 1994.

"(2) For purposes of paragraph (1), the term 'delinquent amount' means an amount—

"(A) in excess of the correct amount of payment under this title;

"(B) paid to a person after such person has attained 18 years of age; and

"(C) determined by the Secretary, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title."

(b) CONFORMING AMENDMENT.—Section 3701(d) of title 31, United States Code, is amended by inserting ", except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)), after 'the Social Security Act (42 U.S.C. 301 et seq.)'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

SEC. 4. PROHIBITION ON PAYMENT OF BENEFITS TO CERTAIN INDIVIDUALS CONFINED BY COURT ORDER TO PUBLIC INSTITUTIONS.

(a) IN GENERAL.—Section 202(x)(1) of the Social Security Act (42 U.S.C. 402(x)(1)) is amended—

(1) by inserting "(A)" after "(1)", and

(2) by adding at the end the following new subparagraph.

"(B) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual is confined in any public institution by a court order pursuant to a verdict or finding that the individual is—

"(i) guilty of an offense described in subparagraph (A), but insane (or having a similar condition, such as a mental disease, a mental defect, or mental incompetence); or

"(ii) not guilty of such an offense by reason of insanity (or by reason of a similar finding, such as a mental disease, a mental defect, or mental incompetence)."

(b) CONFORMING AMENDMENTS.—

(1) Section 202(x)(3) of the Social Security Act (42 U.S.C. 402(x)(3)) is amended by striking "any individual" and all that follows and inserting "any individual confined as described in paragraph (1) if the jail, prison, penal institu-

tion, correctional facility, or other public institution to which such individual is so confined is under the jurisdiction of such agency and the Secretary requires such information to carry out the provisions of this section."

(2) The heading for section 202(x) of such Act is amended by inserting "and Certain Other-Inmates of Public Institutions" after "Prisoners".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(e)(1) (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Secretary pursuant to subparagraph (A) shall require each administrator of a nursing home, extended care facility, or intermediate care facility to report to the Secretary of the admission of any eligible individual or eligible spouse receiving benefits under this title within 2 weeks of such admission."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

The PRESIDING OFFICER (Mr. GRAHAM) appointed Mr. MOYNIHAN, Mr. BAUCUS, Mr. BREAUX, Mr. PACKWOOD and Mr. DOLE conferees on the part of the Senate.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate number be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I commend my colleague, the distinguished chairman of the Senate Finance Committee, for the legislation which has just been approved by the Senate. He provided not only leadership in getting the bill prepared, ushered through the Finance Committee, but also extraordinary perseverance and tenacity in getting it through the Senate in such fashion.

It is not easy to do. Tax bills frequently require a lengthy process with a lot of amendments, and I think it is clear to all concerned that this bill would not have progressed to this point but for the leadership and the perseverance of the chairman, and I commend him for it. It is an important measure, as he has noted.

I wish also to thank the distinguished Republican leader for his cooperation in making this possible.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I thank the majority leader for his gracious remarks. This was an entirely collective effort on behalf of the Finance Committee, and it is characteristic of him to be gracious to colleagues.

I would like to return the compliment and say to the Republican leader that we very much appreciate his help. This matter will now be done, and I fully predict a White House South Lawn ceremony with ice cream,

balloons and the distinguished Republican leader on hand.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE COMPARISON OF

H.R. 4278

**To Simplify Employment Taxes
on Domestic Services**

HOUSE COMMITTEE ON WAYS AND MEANS

SENATE COMMITTEE ON FINANCE

JUNE 20, 1994

Prepared for the use of the conferees

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**CONFERENCE COMPARISON OF
H.R. 4278**

CONFERENCE COMPARISON OF H.R. 4278 SOCIAL SECURITY ACT AMENDMENTS OF 1994

Present Law

House Bill

1. Simplification of
Employment Taxes on Domestic
Services (sec. 2 of House bill
and sec. 2 of Senate amendment)

Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire domestic workers who are properly classified as independent contractors to provide these services are excluded from these requirements.) For Social Security, the wage threshold is reached, generally, when an employer pays \$50 or more per quarter to a domestic employee.

However, wages paid to domestic employees hired by farm operators are subject to the thresholds that are used for determining coverage for agricultural employees. For these employees, the wage threshold is reached if either (1) the farm operator's total farm payroll for a year is \$2,500 or more or (2) the wages paid to an employee in a year are \$150 or more. (This latter test applies only if the farm operator's total payroll for a year is less than \$2,500.)

Senate Amendment

Conference Agreement

Present Law

House Bill

For Federal unemployment insurance (FUTA), the threshold is reached when an employer pays \$1,000 or more in a calendar quarter to one or more domestic employees.

When the \$50 threshold is reached, the employer must file a quarterly report (Form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both the employer and the employee. The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (Form W-2) at the end of the year. When the \$1,000 threshold is reached in any calendar quarter, the employer must file a report (Form 940) with the IRS at the end of the year and submit the required tax.

In addition, employers of domestic workers must: notify employees who may be eligible for the earned income tax credit of the existence of this credit; withhold income tax if the employee requests it and the employer agrees; file and pay State unemployment insurance tax in each quarter in which the State unemployment insurance wage threshold (equal to the \$1,000 Federal threshold in 45 states) is reached; and, in some States, report wages paid to domestic employees to

The provision would change the threshold for withholding and paying Social Security taxes on domestic workers from \$50 per quarter to ,250 annually in 1995.

The provision would index the threshold for increases in average wages in the economy, rounded to \$50 increments.

Senate Amendment

Conference Agreement

The amendment would change the threshold from \$50 per quarter to an annual threshold equal to the amount required for one quarter of Social Security coverage (estimated to be \$630 in 1995.)

Same as House bill except that the threshold would be increased in a year only when the amount required for a quarter of coverage in that year is at least \$50 higher than the threshold for the preceding year.

Present Law

House Bill

the State for purposes of State income tax.

The provision would not apply to domestic service on a farm.

The provision would require individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid these workers and would authorize the Secretary of the Treasury to revise Federal Form 1040 to enable such employers to report both taxes on their own Federal income tax returns.

The provision would include domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions. Employers may satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages.

The provision would authorize the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above.

Senate Amendment

Conference Agreement

The provision would apply to domestic service on a farm.

Same as House bill.

Same as House bill, except no estimated tax penalty would apply to an underpayment of these taxes if they were paid on or before April 15 (or the date the return of the employer is filed, if earlier.)

Same as House bill.

Present Law

House Bill

The provision would require the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

No provision.

The provision would adjust the Social Security tax threshold retroactively to \$1,150 for 1993 and to \$1,200 for 1994. No underpayment of taxes could be assessed (or, if assessed, could be collected), effective on or after the date of enactment. No refunds would be provided.

Effective Date. -- Generally applies to remuneration paid in calendar years beginning after 1994.

2. **Reallocation of a Portion of the Old-Age and Survivors Insurance Payroll Tax to the Disability Insurance Trust Fund (sec. 3 of the House bill)**

Senate Amendment

Conference Agreement

Same as House bill.

The provision would exempt from Social Security taxes any wages paid to a worker for domestic services performed in any year during which the worker is under 18.

No provision.

Effective Date.--Same as House bill. Exemption for workers under 18 applies to services performed in calendar years beginning after 1994.

Present Law

House Bill

Employees and employers each pay a Social Security payroll tax of 7.65 percent of earnings up to a specified ceiling. The self-employed pay at the combined employee-employer rate. The employee and the employer share of the payroll tax is allocated to the Old-Age and Survivors Insurance (OASI), the Disability Insurance (DI), and the Hospital Insurance (HI) programs at the following rates:

<u>Calendar years</u>	<u>OASI tax rate</u>	<u>DI tax rate</u>	<u>HI tax rate</u>
1994-1999	5.60%	0.60%	1.45%
2000 on	5.49%	0.71%	1.45%

The provision would increase the employee and the employer rate of tax for the DI program from 0.6 percent to 0.94 percent, with a commensurate reduction of the rate of the OASI tax. Beginning in 2000, the DI tax rate would be reduced to 0.90 percent, with a commensurate increase of the rate of the OASI tax. The rate of tax would be:

<u>Calendar years</u>	<u>OASI tax rate</u>	<u>DI tax rate</u>	<u>HI tax rate</u>
1994-1999	5.26%	0.94%	1.45%
2000 on	5.30%	0.90%	1.45%

Senate Amendment

Conference Agreement

No provision.

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective Date.--The provision would apply to wages paid after December 31, 1993, and to self-employment income for taxable years beginning after this date.

Senate Amendment

Conference Agreement

3. Limitation on Payments to Incarcerated Criminals and Criminally Insane Individuals Confined to Institutions By Court Order at Public Expense (sec. 4 of the House bill and sec. 4 of the Senate amendment)

Generally, Social Security benefits may not be paid to any individual who is confined in a penal institution pursuant to a felony conviction. This provision does not apply to an individual who is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law and, as determined by the Secretary, is expected to result in the individual being able to engage in substantial gainful activity upon release and within a reasonable time.

Benefits to qualified family members of incarcerated felons continue to be paid. However, there is no provision that restricts payment of Social Security benefits to individuals confined to public institutions pursuant to verdicts related to felony offenses for which the individual was found to be not guilty by reason of insanity.

The provision would:

- Apply the limitation on benefit payments, which currently applies only to incarcerated felons, to all individuals convicted of an offense punishable by imprisonment for more than one year;

- Repeal the exception to the limitation for inmates participating in court-approved rehabilitation; and

No provision.

No provision.

- Extend the limitation to criminally insane individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year. The court order must be issued in connection with a verdict of guilty but insane, a verdict of not guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding based on similar factors (such as mental disease, mental defect, or mental incompetence).

The limitation would continue to apply until such time as the individual is unconditionally released from the care and supervision of the institution to which he or she was confined and the institution ceases to meet the cost of the individual's basic living needs.

A similar limitation would be placed on Medicare Part A hospital insurance (as well as on Medicare Part B supplemental medical insurance in cases where eligibility for Part B is conditioned on eligibility for Part A).

Senate Amendment

Conference Agreement

Similar to the House provision, except that it would exclude court orders issued in connection with findings of incompetence to stand trial.

No provision.

No provision.

To enforce the ban, the Secretary of Health and Human Services would be authorized to require from institutions the names and Social Security numbers of the individuals confined there under the conditions described above.

Effective Date.--The provision would apply to benefits for months commencing after 90 days after enactment and with respect to items and services provided after this 90-day period.

**4. Additional Debt
Collection Procedures
(sec. 3 of the Senate
Amendment)**

The Omnibus Budget Reconciliation Act of 1990 permitted the Social Security Administration to collect overpaid Old-Age, Survivors and Disability Insurance benefits by reducing an individual's Federal tax refund when other efforts to collect the overpayment have fail.

No provision.

In addition, certain debt collection procedures are available for use by most Federal agencies. Those include provisions enabling Federal agencies to recover debts owed to them by offsetting other Federal payments to which the debtor may be entitled (called "administrative offset"); to

Similar provision.

Effective Date.--The provision applies with respect to benefits for months commencing after 90 days after enactment.

SSA would be authorized to use three procedures that are available to other Federal agencies: use of administrative offset, reporting delinquent debtors to credit reporting agencies, and contracting with private debt collection agencies.

These procedures would be available for use only for the purpose of recovering any delinquent amount owed by former Old-Age, Survivors and Disability Insurance beneficiaries who were paid benefits not due. The term "delinquent amount" is defined to mean an amount (1) in excess of the correct amount of payment under title II of the

report delinquent debtors to credit reporting agencies; and to contract with private debt collection agencies to recover delinquent debt. The Social Security Administration (SSA) is prohibited from using these three debt collection procedures.

5. Nursing Homes Required to Report Admissions of SSI Recipients (sec. 5 of the Senate Amendment)

Supplemental Security Income recipients, or their representative payees, are required to report any change in the recipient's status (e.g., income, resources, living arrangements) that may affect the amount of benefits to which the recipient is entitled. Generally, when an SSI recipient enters a nursing home for an extended period, and payment for the recipient's care is being provided by Medicaid, the amount of the recipient's SSI benefit is reduced to no more than \$30 per month, beginning with the first full month of residence. Because nursing home admissions are not always reported promptly to the Social Security Administration, some SSI recipients receive more SSI benefits than they are entitled to in the months following their admission.

No provision.

Social Security Act, (2) paid to a person after the person has attained age 18, and (3) determined by the Secretary, under regulations, to be otherwise unrecoverable.

Effective Date.--The provision applies to collection activities begun on or after the date of enactment and before October 1, 1999.

Nursing home administrators would be required to report to SSA the admission of any SSI recipient within two weeks of the recipient's admission, so that SSA can make timely adjustment in the amount of the recipient's SSI benefit.

Effective Date.--The provision is effective for admissions to nursing homes occurring on or after October 1, 1995.

SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT
OF 1994

OCTOBER 6, 1994.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 4278]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278), to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Domestic Employment Reform Act of 1994".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—
(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—*Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:*

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such serv-

ice is less than the applicable dollar threshold (as defined in subsection (x)) for such year;”.

(B) **APPLICABLE DOLLAR THRESHOLD.**—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

“(x) **APPLICABLE DOLLAR THRESHOLD.**—For purposes of subsection (a)(7)(B), the term ‘applicable dollar threshold’ means \$1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such \$1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If any amount as adjusted under the preceding sentence is not a multiple of \$100, such amount shall be rounded to the next lowest multiple of \$100.”.

(C) **EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.**—Section 3121(b) of such Code (defining employment) is amended—

- (i) by striking “or” at the end of paragraph (19),
- (ii) by striking the period at the end of paragraph (20) and inserting “; or”, and
- (iii) by adding at the end the following new paragraph:

“(21) domestic service in a private home of the employer which—

“(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

“(B) is not the principal occupation of such employee.”.

(D) **CONFORMING AMENDMENTS.**—The second sentence of section 3102(a) of such Code is amended—

- (i) by striking “calendar quarter” each place it appears and inserting “calendar year”, and
- (ii) by striking “\$50” and inserting “the applicable dollar threshold (as defined in section 3121(x)) for such year”.

(2) **AMENDMENT OF SOCIAL SECURITY ACT.**—

(A) **GENERAL RULE.**—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

“(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;”.

(B) **EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.**—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

- (i) by striking “or” at the end of paragraph (19),
- (ii) by striking the period at the end of paragraph (20) and inserting “; or”, and

(iii) by adding at the end the following new paragraph:

“(21) Domestic service in a private home of the employer which—

“(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

“(B) is not the principal occupation of such employee.”.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

(4) NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994; CONTINUATION OF W-2 FILING REQUIREMENT.—Notwithstanding the amendments made by this subsection, if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than \$1,000—

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any such wages required to be included on any such return or statement.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

“(a) GENERAL RULE.—Except as otherwise provided in this section—

“(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

“(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer’s taxable year which begins in such calendar year, and

“(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

“(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

“(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

"(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

"(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

"(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

“(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

“(4) STATE.—For purposes of this subsection, the term ‘State’ has the meaning given such term by section 3306(j)(1).”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or the Secretary’s delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking “(O) 1.20 per centum” and all that follows through “December 31, 1999, and so reported,” and inserting “(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,”.

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended striking “(O) 1.20 per centum” and all that follows through “December 31, 1999,” and inserting “(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999,”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) *IN GENERAL.*—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) *MATTERS TO BE INCLUDED IN STUDY.*—In conducting the study under this subsection, the Commissioner of Social Security shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) *REPORT.*—Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) *IN GENERAL.*—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting “and Certain Other Inmates of Publicly Funded Institutions” after “Prisoners”;

(2) by striking “(x)(1) Notwithstanding” and all that follows through the end of paragraph (1) and inserting the following:
“(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual—

“(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

“(ii) is confined by court order in an institution at public expense in connection with—

“(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

“(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

“(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

“(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

“(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

“(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

“(I) he or she is released from the care and supervision of such institution, and

“(II) such institution ceases to meet the individual’s basic living needs.”;

and

(3) in paragraph (3), by striking “any individual” and all that follows and inserting “any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

“(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

“(2) For purposes of paragraph (1), the term ‘delinquent amount’ means an amount—

“(A) in excess of the correct amount of payment under this title;

“(B) paid to a person after such person has attained 18 years of age; and

“(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.”.

(b) CONFORMING AMENDMENT.—Section 3701(d) of title 31, United States Code, is amended by inserting “, except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)),” after “the Social Security Act (42 U.S.C. 301 et seq.)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) *IN GENERAL.*—Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

“(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission.”.

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

SEC. 7. RULE OF CONSTRUCTION.

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.

And the Senate agree to the same.

SAM GIBBONS,
DAN ROSTENKOWSKI,
J.J. PICKLE,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BILL ARCHER,
JIM BUNNING,
RICK SANTORUM,

Managers on the Part of the House

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT OF 1994

1. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES (SEC. 2 OF HOUSE BILL AND SEC. 2 OF SENATE AMENDMENT)

Present law

Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire domestic workers who are properly classified as independent contractors to provide these services are excluded from these requirements.) For Social Security, the wage threshold is reached, generally, when an employer pays \$50 or more per quarter to a domestic employee.

However, wages paid to domestic employees hired by farm operators are subject to the thresholds that are used for determining coverage for agricultural employees. For these employees, the wage threshold is reached if either (1) the farm operator's total farm payroll for a year is \$2,500 or more, or (2) the wages paid to an employee in a year are \$150 or more. (This latter test applies only if the farm operator's total payroll for a year is less than \$2,500.)

For Federal unemployment insurance (FUTA), the threshold is reached when an employer pays \$1,000 or more in a calendar quarter to one or more domestic employees.

When the \$50 threshold is reached, the employer must file a quarterly report (Form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both the employer and the employee. The employer must also provide the em-

ployee and the Social Security Administration with a Wage and Tax Statement (Form W-2) at the end of the year. When the \$1,000 unemployment insurance wage threshold is reached in any calendar quarter, the employer must file a report (Form 940) with the IRS at the end of the year, submitting the required tax.

In addition, employers of domestic workers must: notify employees who may be eligible for the earned income tax credit of the existence of this credit; withhold income tax if the employee requests it and the employer agrees; file and pay State unemployment insurance tax in each quarter in which the State unemployment insurance wage threshold (equal to the \$1,000 Federal threshold in 45 States) is reached; and, in some States, report wages paid to domestic employees to the State for purposes of State income tax.

House bill

Reporting

The bill requires individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid these workers and authorizes the Secretary of the Treasury to revise Federal Form 1040 to enable such employers to report both taxes on their own Federal income tax returns.

The bill also requires the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

Threshold

The bill changes the threshold for withholding and paying Social Security taxes on domestic workers from \$50 per quarter to \$1,250 annually in 1995.

Indexing

The bill indexes the threshold for increases in average wages in the economy, rounded to \$50 increments.

Farm service

The bill does not apply to domestic service on a farm.

Estimated taxes

The bill includes domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions. Employers may satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages.

State unemployment

The bill authorizes the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above.

Age limitation

No provision.

Effective date.—Generally applies to remuneration paid in calendar years beginning after 1994.

The bill adjusts the Social Security tax threshold retroactively to \$1,150 for 1993 and to \$1,200 for 1994. No underpayment of taxes could be assessed (or, if assessed, could be collected), effective on or after the date of enactment. No refunds would be provided.

*Senate amendment**Reporting*

Same as House bill.

Threshold

The amendment changes the threshold from \$50 per quarter to an annual threshold equal to the amount required for one quarter of Social Security coverage (estimated to be \$630 in 1995).

Indexing

Same as House bill, except the amendment would use a technically different indexing mechanism.

Farm service

The amendment applies to domestic service on a farm.

Estimated taxes

Same as House bill, except no estimated tax penalty would apply to an underpayment of these taxes if they were paid on or before April 15 (or the date the return of the employer is filed, if earlier.)

State unemployment

Same as House bill.

Age limitation

The amendment exempts from Social Security taxes any wages paid to a worker for domestic services performed in any year during which the worker is under the age of 18.

Effective date.—Generally applies to remuneration paid in calendar years beginning after 1994 (same as House bill). Exemption for workers under the age of 18 applies to services performed in calendar years beginning after 1994.

No provision with respect to retroactive adjustment of the threshold for 1993 and 1994.

*Conference agreement**Reporting*

The conference agreement follows the House bill and the Senate amendment.

The Secretary of the Treasury continues to have regulatory authority to allow States to pay the employment taxes for certain public assistance recipients who employ household workers. Sev-

eral States have agreements under which the State handles the appropriate Federal employment taxes for household workers employed by public assistance recipients under State programs.

Threshold

The conference agreement provides that the threshold is \$1,000.

Indexing

The conference agreement follows the House bill and the Senate amendment by indexing the \$1,000 threshold. Indexing will occur in \$100 increments, rounded down to the nearest \$100.

Farm service

The conference agreement follows the Senate amendment.

Estimated taxes

The conference agreement follows the House bill, except that estimated tax penalties will not apply to amounts affected by the conference agreement until 1998. The conferees intend that the Internal Revenue Service disseminate the informational materials required by the statute so that taxpayers will be fully apprised of the provisions of the conference agreement (including the provision related to estimated taxes).

Individuals not required to make estimated tax payments (including by having income taxes withheld from their wages) are not required to begin making estimated tax payments (or wage withholding) solely as a consequence of the conference agreement. Individuals otherwise required to make estimated tax payments (including by having income taxes withheld from their wages) are required, after 1997, to include amounts affected by the conference agreement in those estimated tax payment (or wage withholding).

State unemployment

The conference agreement follows the House bill and the Senate amendment.

Age limitation

The conference agreement follows the Senate amendment, except that the exemption for workers under the age of 18 would not apply to individuals whose principal occupation is household employment. Being a student is considered to be an occupation for purposes of this test. Thus, for example, the wages of a student who is 16 years old who also babysits will be exempt from the reporting and payment requirements, regardless of whether the amount of wages paid is above or below the threshold. On the other hand, for example, the wages of a 17 year-old single mother who leaves school and goes to work as a domestic to support her family will be subject to the reporting and payment requirements; she will consequently obtain Social Security coverage with respect to those wages.

Effective date.—The \$1,000 threshold is effective for calendar year 1994. The simplified reporting system, as well as the other provisions of the conference agreement, are effective January 1,

1995. Refunds would be given for payroll taxes on wages paid in 1994 when the total wages that an employee receives from an employer are below the \$1,000 threshold.

There will be no loss of Social Security wage credits with respect to amounts refunded for 1994. To provide information reporting to ensure that there is no loss of credits, an employer who would have been required to file a Form W-2 (without regard to the enactment of these provisions) will continue to be required to do so, and will be required to report wages paid for the whole year in the "social security wages" box, even though the employer will receive a refund of any Social Security taxes paid.

Example 1.—Assume Employer A pays domestic employee R \$500 in wages for calendar year 1994. A has been making quarterly payments of the payroll taxes due on these wages. A will not be required to make any further quarterly payments of payroll taxes with respect to 1994 that are due on or after the date of enactment of the conference agreement. A can obtain a refund of payroll taxes previously paid. Employee R will get Social Security credit with respect to the \$500 of wages.

Example 2.—Assume Employer B pays a domestic employee \$1,500 in wages for calendar year 1994. B has been make quarterly payments of the payroll taxes due on these wages. B must continue to make quarterly payments of payroll taxes to the remainder of 1994.

Example 3.—Assume Employer A will pay domestic employee R \$500 in wages for calendar year 1995. Because the amount of these wages is below the \$1,000 threshold, A is not subject to reporting.

Example 4.—Assume Employer B will pay domestic employee S \$1,500 in wages for calendar year 1995. Because the amount of these wages is above the \$1,000 threshold, B is subject to reporting.

2. REALLOCATION OF A PORTION OF THE OLD-AGE AND SURVIVORS INSURANCE PAYROLL TAX TO THE DISABILITY INSURANCE TRUST FUND (SEC. 3 OF THE HOUSE BILL)

Present law

Employees and employers each pay a Social Security payroll tax of 7.65 percent of earnings up to a specified ceiling. The self-employed pay at the combined employee-employer rate. The employee and the employer share of the payroll tax is allocated to the Old-Age and Survivors Insurance (OASI), the Disability Insurance (DI), and the Hospital Insurance (HI) programs at the following rates:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994-99	5.60	0.60	1.45
2000 on	5.49	0.71	1.45

House bill

The provision would increase the employee and the employer rate of tax for the DI program from 0.6 percent to 0.94 percent,

with commensurate reduction of the rate of the OASI tax. Beginning in 2000, the DI tax rate would be reduced to 0.90 percent, with a commensurate increase of the rate of the OASI tax. The rate of tax would be:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994-99	5.26	0.94	1.45
2000 on	5.30	0.90	1.45

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective date.—The provision would apply to wages paid after December 31, 1993, and to self-employment income for taxable years beginning after this date.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision, with an amendment making the allocation to the DI trust fund 0.85 percent of payroll for the employer and employee, each, for the years 1997-99. The resulting tax rates are:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994-96	5.26	0.94	1.45
1997-99	5.35	0.85	1.45
2000 on	5.30	0.90	1.45

The Commissioner of Social Security would be required to provide the study by October 1, 1995. The conferees understand that the Social Security Administration may not have sufficient data to provide as full a report as the Congress may want by the October 1 due date. The conferees expect that the Commissioner will supplement the October 1 report with any subsequent findings and recommendations that the Commissioner may wish to make no later than December 31, 1995.

3. LIMITATION ON PAYMENTS TO INCARCERATED CRIMINALS AND CRIMINALLY INSANE INDIVIDUALS CONFINED TO INSTITUTIONS BY COURT ORDER AT PUBLIC EXPENSE (SEC. 4 OF THE HOUSE BILL AND SEC. 4 OF THE SENATE AMENDMENT)

Present law

Generally, Social Security benefits may not be paid to any individual who is confined in a penal institution pursuant to a felony conviction. (This provision does not apply to an individual who is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law and, as determined by the Secretary, is expected to result in the individual being able to engage in substantial gainful activity upon release and within a reasonable time.) Benefits to qualified family members of incarcerated felons continue to be paid.

When an individual is confined to a public institution pursuant to a verdict related to a felony offense for which he or she was found to be not guilty by reason of insanity, the Social Security Act provides no limitation on benefit payments.

House bill

The provision would:

Apply the limitation on Social Security benefit payments, which currently applies only to incarcerated felons, to all individuals convicted of an offense punishable by imprisonment for more than one year;

Repeal the exception to the limitation for inmates participating in court-approved rehabilitation; and

Extend the limitation to criminally insane individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year. The court order must be issued pursuant to a verdict of guilty but insane, a verdict of not guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding based on similar factors (such as mental disease, mental defect, or mental incompetence).

The limitation would continue to apply until such time as the individual is unconditionally released from the care and supervision of the institution to which he or she was confined and the institution ceases to meet the cost of the individual's basic living needs.

A similar limitation would be placed on Medicare Part A hospital insurance (as well as on Medicare Part B supplemental medical insurance in cases where eligibility for Part B is conditioned on eligibility for Part A).

To enforce the ban, the Secretary of Health and Human Services would be authorized to require from institutions the names and Social Security numbers of the individuals confined there under the conditions described above.

Effective date.—The provision would apply to benefits for months commencing after 90 days after enactment and with respect to items and services provided after this 90-day period.

Senate amendment

The amendment would suspend payment of any Social Security benefit payable under title II of the Social Security Act to any individual while confined in any public institution, if the individual had been found guilty of a felony offense but insane, or not guilty of a felony offense by reason of insanity or other similar disorder. Federal or State agencies having jurisdiction over institutions where such individuals are confined would be required to furnish such information as the Secretary of Health and Human Services may require to carry out this provision.

Effective date.—The provision would apply with respect to benefits for months commencing after 90 days after enactment.

Conference agreement

The conference agreement generally follows the House provision, modified to:

(1) maintain the current exception for prisoners in court-approved rehabilitation;

(2) maintain Medicare eligibility for individuals whose cash benefits have been suspended due to their confinement;

(3) provide that benefits will be reinstated to individuals who are released from an institution to which they were committed pursuant to an insanity verdict, so long as the institution ceases to meet the individual's basic living needs; and

(4) provide that an individual is not to be treated as confined to a prison or other penal institution during any month throughout which he or she resides outside such institution at no expense (other than the cost of monitoring) to the institution or the penal system (or, if the penal system has transferred jurisdiction over the individual to another agency, at no expense to the institution, the penal system, or that agency).

The fourth modification addresses an issue that has arisen because of the development of highly sophisticated electronic surveillance technology. Relying on such technology, courts and prisons are confining growing numbers of individuals to their homes, where they can now be effectively monitored. SSA's policy response to this practice is two-fold: In cases where an individual is confined to home by court order, the agency will resume payment of monthly benefits. However, in cases where an individual is confined to home without such an order (e.g., because of crowding in a prison), SSA continues to suspend benefits.

The conferees disagree with SSA's policy in the second instance. The conferees believe that payments should be resumed for any month in which a prisoner resides outside a correctional facility at no expense (other than the cost of monitoring) to the penal system.

4. ADDITIONAL DEBT COLLECTION PROCEDURES (SEC. 3 OF THE SENATE AMENDMENT)

Present law

The Omnibus Budget Reconciliation Act of 1990 permits the Social Security Administration to collect overpaid Social Security benefits from former beneficiaries by reducing these individuals'

Federal tax refunds when other efforts to collect the overpayment have failed.

In addition, certain debt collection procedures are available for use by most Federal agencies. Those include provisions enabling Federal agencies to recover debts owed to them by offsetting other Federal payments to which the debtor may be entitled (called "administrative offset"); to report delinquent debtors to credit reporting agencies; and to contract with private debt collection agencies to recover delinquent debt. The Social Security Administration (SSA) is prohibited from using these three debt collection procedures.

House bill

No provision.

Senate amendment

SSA would be authorized to use three procedures that are available to other Federal agencies: administrative offset, reporting delinquent debtors to credit reporting agencies, and contracting with private debt collection agencies.

These procedures would be available for use only for the purpose of recovering any delinquent amount owned by former Social Security beneficiaries who were paid benefits not due. The term "delinquent amount" is defined to mean an amount (1) in excess of the correct amount of payment under title II of the Social Security Act, (2) paid to a person after the person has attained age 18, and (3) determined by the Secretary, under regulations, to be otherwise unrecoverable.

Effective date.—The provision would apply to collection activities begun on or after the date of enactment and before October 1, 1999.

Conference agreement

The conference agreement follows the Senate amendment.

5. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS (SEC. 5 OF THE SENATE AMENDMENT)

Present law

Supplemental Security Income recipients, or their representative payees, are required to report to the Social Security Administration any change in the recipient's status (e.g., income, resources, living arrangements) that may affect the amount of benefits to which the recipient is entitled. Generally, when an SSI recipient enters a nursing home for an extended period, and payment for the recipient's care is being provided by Medicaid, the amount of the recipient's SSI benefit is reduced to no more than \$30 per month, beginning with the first full month of residence. Because nursing home admissions are not always reported promptly to SSA, some SSI recipients receive more benefits than they are entitled to receive in the months following their admission.

House bill

No provision.

Senate amendment

Nursing home administrators would be required to report to SSA the admission of any SSI recipient within two weeks of the recipient's admission, so that SSA can make timely adjustment in the amount of the recipient's SSI benefit.

Effective date.—The provision is effective for admissions to nursing homes occurring on or after October 1, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

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BOB DOLE,

Managers on the Part of the Senate.

○

(B) **APPLICABLE DOLLAR THRESHOLD.**—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

“(x) **APPLICABLE DOLLAR THRESHOLD.**—For purposes of subsection (a)(7)(B), the term ‘applicable dollar threshold’ means \$1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such \$1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted (or the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act, if any amount as adjusted under the preceding sentence is not a multiple of \$100, such amount shall be rounded to the next lowest multiple of \$100.”

(C) **EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.**—Section 3121(b) of such Code (defining employment) is amended—

(i) by striking “or” at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting “; or”, and

(iii) by adding at the end the following new paragraph:

“(21) domestic service in a private home of the employer which—

“(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

“(B) is not the principal occupation of such employee.”

(D) **CONFORMING AMENDMENTS.**—The second sentence of section 3102(a) of such Code is amended—

(i) by striking “calendar quarter” each place it appears and inserting “calendar year”, and

(ii) by striking “\$50” and inserting “the applicable dollar threshold (as defined in section 3121(x)) for such year”.

(2) **AMENDMENT OF SOCIAL SECURITY ACT.**—

(A) **GENERAL RULE.**—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

“(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year.”

(B) **EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.**—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(i) by striking “or” at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting “; or”, and

(iii) by adding at the end the following new paragraph:

“(21) Domestic service in a private home of the employer which—

“(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

“(B) is not the principal occupation of such employee.”

(3) **EFFECTIVE DATES.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) **EXCLUDED EMPLOYMENT.**—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

(4) **NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994: CONTINUATION OF W-2 FILING REQUIREMENT.**—Notwithstanding the amendments made by this subsection, if the wages (as defined in

section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than \$1,000—

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any such wages required to be included on any such return or statement.

(b) **COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.**—

(1) **IN GENERAL.**—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

“**SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.**

“(a) **GENERAL RULE.**—Except as otherwise provided in this section—

“(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

“(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer’s taxable year which begins in such calendar year, and

“(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

“(b) **DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.**—

“(1) **IN GENERAL.**—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

“(2) **EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.**—Paragraph (1) shall not apply to any employer for any calendar year if—

“(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

“(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

“(3) **ANNUALIZATION.**—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

“(4) **TRANSITIONAL RULE.**—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

“(c) **DOMESTIC SERVICE EMPLOYMENT TAXES.**—For purposes of this section, the term ‘domestic service employment taxes’ means—

“(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

“(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term ‘domestic service in a private home of the employer’ includes domestic service described in section 3121(g)(5).

“(d) **EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.**—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer

CONFERENCE REPORT ON H.R. 4278, SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT OF 1994

Mr. GIBBONS submitted the following conference report and statement on the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act:

CONFERENCE REPORT (H. REPT. 103-842)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278), to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Social Security Domestic Employment Reform Act of 1994”.

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) **THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.**—

(1) **AMENDMENTS OF INTERNAL REVENUE CODE.**—

(A) **GENERAL RULE.**—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

“(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year.”

"(e) **GENERAL REGULATORY AUTHORITY.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) **AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.**—

"(1) **IN GENERAL.**—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) **TRANSFERS TO STATE ACCOUNT.**—Any amounts collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) **SUBTITLE F MADE APPLICABLE.**—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) **STATE.**—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) **EXPANDED INFORMATION TO EMPLOYERS.**—The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) **ALLOCATION WITH RESPECT TO WAGES.**—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999, and so reported," and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported."

(b) **ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.**—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended striking "(O) 1.20 per centum" and all that follows through "December 31, 1999," and inserting "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year begin-

ning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) **IN GENERAL.**—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) **MATTERS TO BE INCLUDED IN STUDY.**—In conducting the study under this subsection, the Commissioner of Social Security shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) **REPORT.**—Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PUNISHMENT OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) **IN GENERAL.**—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting "and Certain Other Inmates of Publicly Funded Institutions" after "Prisoners";

(2) by striking "(x)(2) Notwithstanding" and all that follows through the end of paragraph (1) and inserting the following:

"(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual—

(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

(ii) is confined by court order in an institution at public expense in connection with—

(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year.

(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which

such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

(I) he or she is released from the care and supervision of such institution, and

(II) such institution ceases to meet the individual's basic living needs.";

and

(3) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) **IN GENERAL.**—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

"(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

"(2) For purposes of paragraph (1), the term 'delinquent amount' means an amount—

(A) in excess of the correct amount of payment under this title;

(B) paid to a person after such person has attained 18 years of age; and

(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title."

(b) **CONFORMING AMENDMENT.**—Section 3701(d) of title 31, United States Code, is amended by inserting "except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f))" after "the Social Security Act (42 U.S.C. 301 et seq.)."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) **IN GENERAL.**—Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

SEC. 7. RULE OF CONSTRUCTION.

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.

And the Senate agree to the same.

SAM GIBBONS,
DAN ROSTENKOWSKI,
J.J. PICKLER,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BILL ARCHER.

JIM BUNNING.
RICK SANTORUM.

Managers on the Part of the House

DANIEL PATRICK MOYNIHAN.
MAX BAUCUS.
JOHN BREAUX.
BOB PACKWOOD.
BOB DOLE.

Managers on the Part of the Senate.

**JOINT EXPLANATORY STATEMENT OF
THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

**SOCIAL SECURITY DOMESTIC EMPLOYMENT
REFORM ACT OF 1994**

**1. SIMPLIFICATION OF EMPLOYMENT TAXES ON
DOMESTIC SERVICES (SEC. 2 OF HOUSE BILL
AND SEC. 2 OF SENATE AMENDMENT)**

Present law

Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire domestic workers who are properly classified as independent contractors to provide these services are excluded from these requirements.) For Social Security, the wage threshold is reached, generally, when an employer pays \$50 or more per quarter to a domestic employee.

However, wages paid to domestic employees hired by farm operators are subject to the thresholds that are used for determining coverage for agricultural employees. For these employees, the wage threshold is reached if either (1) the farm operator's total farm payroll for a year is \$2,500 or more, or (2) the wages paid to an employee in a year are \$150 or more. (This latter test applies only if the farm operator's total payroll for a year is less than \$2,500.)

For Federal unemployment insurance (FUTA), the threshold is reached when an employer pays \$1,000 or more in a calendar quarter to one or more domestic employees.

When the \$50 threshold is reached, the employer must file a quarterly report (Form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both the employer and the employee. The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (Form W-2) at the end of the year. When the \$1,000 unemployment insurance wage threshold is reached in any calendar quarter, the employer must file a report (Form 940) with the IRS at the end of the year, submitting the required tax.

In addition, employers of domestic workers must notify employees who may be eligible

for the earned income tax credit of the existence of this credit: withhold income tax if the employee requests it and the employer agrees; file and pay State unemployment insurance tax in each quarter in which the State unemployment insurance wage threshold (equal to the \$1,000 Federal threshold in 45 States) is reached; and, in some States, report wages paid to domestic employees to the State for purposes of State income tax.

House bill

Reporting

The bill requires individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid these workers and authorizes the Secretary of the Treasury to revise Federal Form 1040 to enable such employers to report both taxes on their own Federal income tax returns.

The bill also requires the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

Threshold

The bill changes the threshold for withholding and paying Social Security taxes on domestic workers from \$50 per quarter to \$1,250 annually in 1995.

Indexing

The bill indexes the threshold for increases in average wages in the economy, rounded to \$50 increments.

Farm service

The bill does not apply to domestic service on a farm.

Estimated taxes

The bill includes domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions. Employers may satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages.

State unemployment

The bill authorizes the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above.

Age limitation

No provision.

Effective date.—Generally applies to remuneration paid in calendar years beginning after 1994.

The bill adjusts the Social Security tax threshold retroactively to \$1,150 for 1993 and to \$1,200 for 1994. No underpayment of taxes could be assessed (or, if assessed, could be collected), effective on or after the date of enactment. No refunds would be provided.

Senate amendment

Reporting

Same as House bill.

Threshold

The amendment changes the threshold from \$50 per quarter to an annual threshold equal to the amount required for one quarter of Social Security coverage (estimated to be \$630 in 1995).

Indexing

Same as House bill, except the amendment would use a technically different indexing mechanism.

Farm service

The amendment applies to domestic service on a farm.

Estimated taxes

Same as House bill, except no estimated tax penalty would apply to an underpayment of these taxes if they were paid on or before April 15 (or the date the return of the employer is filed, if earlier.)

State unemployment

Same as House bill.

Age limitation

The amendment exempts from Social Security taxes any wages paid to a worker for domestic services performed in any year during which the worker is under the age of 18.

Effective date.—Generally applies to remuneration paid in calendar years beginning after 1994 (same as House bill). Exemption for workers under the age of 18 applies to services performed in calendar years beginning after 1994.

No provision with respect to retroactive adjustment of the threshold for 1993 and 1994.

Conference agreement

REPORTING

The conference agreement follows the House bill and the Senate amendment.

The Secretary of the Treasury continues to have regulatory authority to allow States to pay the employment taxes for certain public assistance recipients who employ household workers. Several States have agreements under which the State handles the appropriate Federal employment taxes for household workers employed by public assistance recipients under State programs.

THRESHOLD

The conference agreement provides that the threshold is \$1,000.

INDEXING

The conference agreement follows the House bill and the Senate amendment by indexing the \$1,000 threshold. Indexing will occur in \$100 increments, rounded down to the nearest \$100.

FARM SERVICE

The conference agreement follows the Senate amendment.

ESTIMATED TAXES

The conference agreement follows the House bill, except that estimated tax penalties will not apply to amounts affected by the conference agreement until 1998. The conferees intend that the Internal Revenue Service disseminate the informational materials required by the statute so that taxpayers will be fully apprised of the provisions of the conference agreement (including the provision related to estimated taxes).

Individuals not required to make estimated tax payments (including by having income taxes withheld from their wages) are not required to begin making estimated tax payments (or wage withholding) solely as a consequence of the conference agreement. Individuals otherwise required to make estimated tax payments (including by having income taxes withheld from their wages) are required, after 1997, to include amounts affected by the conference agreement in those estimated tax payment (or wage withholding).

STATE UNEMPLOYMENT

The conference agreement follows the House bill and the Senate amendment.

AGE LIMITATION

The conference agreement follows the Senate amendment, except that the exemption for workers under the age of 18 would not apply to individuals whose principal occupation is household employment. Being a student is considered to be an occupation for purposes of this test. Thus, for example, the wages of a student who is 16 years old who also babysits will be exempt from the report-

ing and payment requirements, regardless of whether the amount of wages paid is above or below the threshold. On the other hand, for example, the wages of a 17 year-old single mother who leaves school and goes to work as a domestic to support her family will be subject to the reporting and payment requirements; she will consequently obtain Social Security coverage with respect to those wages.

Effective date.—The \$1,000 threshold is effective for calendar year 1994. The simplified reporting system, as well as the other provisions of the conference agreement, are effective January 1, 1995. Refunds would be given for payroll taxes on wages paid in 1994 when the total wages that an employee receives from an employer are below the \$1,000 threshold.

There will be no loss of Social Security wage credits with respect to amounts refunded for 1994. To provide information reporting the ensure that there is no loss of credits, an employer who would have been required to file a Form W-2 (without regard to the enactment of these provisions) will continue to be required to do so, and will be required to report wages paid for the whole year in the "social security wages" box, even though the employer will receive a refund of any Social Security taxes paid.

Example 1.—Assume Employer A pays a domestic employee R \$500 in wages for calendar year 1994. A has been making quarterly payments of the payroll taxes due on these wages. A will not be required to make any further quarterly payments of payroll taxes with respect to 1994 that are due on or after the date of enactment of the conference agreement. A can obtain a refund of payroll taxes previously paid. Employee R will get Social Security credit with respect to the \$500 of wages.

Example 2.—Assume Employer B pays a domestic employee \$1,500 in wages for calendar year 1994. B has been making quarterly payments of the payroll taxes due on these wages. B must continue to make quarterly payments of payroll taxes to the remainder of 1994.

Example 3.—Assume Employer A will pay domestic employee R \$500 in wages for calendar year 1995. Because the amount of these wages is below the \$1,000 threshold, A is not subject to reporting.

Example 4.—Assume Employer B will pay domestic employee S \$1,500 in wages for calendar year 1995. Because the amount of these wages is above the \$1,000 threshold, B is subject to reporting.

2. REALLOCATION OF A PORTION OF THE OLD-AGE AND SURVIVORS INSURANCE PAYROLL TAX TO THE DISABILITY INSURANCE TRUST FUND (SEC. 3 OF THE HOUSE BILL)

Present law

Employees and employers each pay a Social Security payroll tax of 7.65 percent of earnings up to a specified ceiling. The self-employed pay at the combined employee-employer rate. The employee and the employer share of the payroll tax is allocated to the Old-Age and Survivors Insurance (OASI), the Disability Insurance (DI), and the Hospital Insurance (HI) programs at the following rates:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994-99	5.60	0.60	1.45
2000 on	5.49	0.71	1.45

House bill

The provision would increase the employee and the employer rate of tax for the DI pro-

gram from 0.6 percent to 0.94 percent, with commensurate reduction of the rate of the OASI tax. Beginning in 2000, the DI tax rate would be reduced to 0.90 percent, with a commensurate increase of the rate of the OASI tax. The rate of tax would be:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994-99	5.76	0.94	1.45
2000 on	5.30	0.90	1.45

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective date.—The provision would apply to wages paid after December 31, 1993, and to self-employment income for taxable years beginning after this date.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision, with an amendment making the allocation to the DI trust fund 0.85 percent of payroll for the employer and employee, each, for the years 1997-99. The resulting tax rates are:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994-96	5.26	0.94	1.45
1997-99	5.35	0.85	1.45
2000 on	5.30	0.90	1.45

The Commissioner of Social Security would be required to provide the study by October 1, 1995. The conferees understand that the Social Security Administration may not have sufficient data to provide as full a report as the Congress may want by the October 1 due date. The conferees expect that the Commissioner will supplement the October 1 report with any subsequent findings and recommendations that the Commissioner may wish to make no later than December 31, 1995.

3. LIMITATION ON PAYMENTS TO INCARCERATED CRIMINALS AND CRIMINALLY INSANE INDIVIDUALS CONFINED TO INSTITUTIONS BY COURT ORDER AT PUBLIC EXPENSE (SEC. 4 OF THE HOUSE BILL AND SEC. 4 OF THE SENATE AMENDMENT)

Present law

Generally, Social Security benefits may not be paid to any individual who is confined in a penal institution pursuant to a felony conviction. (This provision does not apply to an individual who is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law and, as determined by the Secretary, is expected to result in the individual being able to engage in substantial gainful activity upon release

and within a reasonable time.) Benefits to qualified family members of incarcerated felons continue to be paid.

When an individual is confined to a public institution pursuant to verdict related to a felony offense for which he or she was found to be not guilty by reason of insanity, the Social Security Act provides no limitation on benefit payments.

House bill

The provision would:

Apply the limitation on Social Security benefit payments, which currently applies only to incarcerated felons, to all individuals convicted of an offense punishable by imprisonment for more than one year;

Repeal the exception to the limitation for inmates participating in court-approved rehabilitation; and

Extend the limitation to criminally insane individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year. The court order must be issued pursuant to a verdict of guilty but insane, a verdict of not guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding based on similar factors (such as mental disease, mental defect, or mental incompetence).

The limitation would continue to apply until such time as the individual is unconditionally released from the care and supervision of the institution to which he or she was confined and the institution ceases to meet the cost of the individual's basic living needs.

A similar limitation would be placed on Medicare Part A hospital insurance (as well as on Medicare Part B supplemental medical insurance in cases where eligibility for Part B is conditioned on eligibility for Part A).

To enforce the ban, the Secretary of Health and Human Services would be authorized to require from institutions the names and Social Security numbers of the individuals confined there under the conditions described above.

Effective date.—The provision would apply to benefits for months commencing after 90 days after enactment and with respect to items and services provided after this 90-day period.

Senate amendment

The amendment would suspend payment of any Social Security benefit payable under title II of the Social Security Act to any individual while confined in any public institution, if the individual had been found guilty of a felony offense but insane, or not guilty of a felony offense by reason of insanity or other similar disorder. Federal or State agencies having jurisdiction over institutions where such individuals are confined would be required to furnish such information as the Secretary of Health and Human Services may require to carry out this provision.

Effective date.—The provision would apply with respect to benefits for months commencing after 90 days after enactment.

Conference agreement

The conference agreement generally follows the House provision, modified to:

- (1) maintain the current exception for prisoners in court-approved rehabilitation;
- (2) maintain Medicare eligibility for individuals whose cash benefits have been suspended due to their confinement;
- (3) provide that benefits will be reinstated to individuals who are released from an institution to which they were committed pursuant to an insanity verdict, so long as the institution ceases to meet the individual's basic living needs; and

(4) provide that an individual is not to be treated as confined to a prison or other penal institution during any month throughout which he or she resides outside such institution at no expense (other than the cost of monitoring) to the institution or the penal system (or, if the penal system has transferred jurisdiction over the individual to another agency, at no expense to the institution, the penal system, or that agency).

The fourth modification addresses an issue that has arisen because of the development of highly sophisticated electronic surveillance technology. Relying on such technology, courts and prisons are confining growing numbers of individuals to their homes, where they can now be effectively monitored. SSA's policy response to this practice is two-fold: In cases where an individual is confined to home by court order, the agency will resume payment of monthly benefits. However, in cases where an individual is confined to home without such an order (e.g., because of crowding in a prison), SSA continues to suspend benefits.

The conferees disagree with SSA's policy in the second instance. The conferees believe that payments should be resumed for any month in which a prisoner resides outside a correctional facility at no expense (other than the cost of monitoring) to the penal system.

4. ADDITIONAL DEBT COLLECTION PROCEDURES (SEC. 3 OF THE SENATE AMENDMENT)

Present law

The Omnibus Budget Reconciliation Act of 1990 permits the Social Security Administration to collect overpaid Social Security benefits from former beneficiaries by reducing these individual's Federal tax refunds when other efforts to collect the overpayment have failed.

In addition, certain debt collection procedures are available for use by most Federal agencies. Those include provisions enabling Federal agencies to recover debts owed to them by offsetting other Federal payments to which the debtor may be entitled (called "administrative offset"); to report delinquent debtors to credit reporting agencies; and to contract with private debt collection agencies to recover delinquent debt. The Social Security Administration (SSA) is prohibited from using these three debt collection procedures.

House bill

No provision.

Senate amendment

SSA would be authorized to use three procedures that are available to other Federal agencies: administrative offset, reporting delinquent debtors to credit reporting agencies, and contracting with private debt collection agencies.

These procedures would be available for use only for the purpose of recovering any delinquent amount owned by former Social Security beneficiaries who were paid benefits not due. The term "delinquent amount" is defined to mean an amount (1) in excess of the correct amount of payment under title II of the Social Security Act, (2) paid to a person after the person has attained age 18, and (3) determined by the Secretary, under regulations, to be otherwise unrecoverable.

Effective date.—The provision would apply to collection activities begun on or after the date of enactment and before October 1, 1999.

Conference agreement

The conference agreement follows the Senate amendment.

5. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS (SEC. 5 OF THE SENATE AMENDMENT)

Present law

Supplemental Security Income recipients, or their representative payees, are required to report to the Social Security Administration any change in the recipient's status (e.g., income, resources, living arrangements) that may affect the amount of benefits to which the recipient is entitled. Generally, when an SSI recipient enters a nursing home for an extended period, and payment for the recipient's care is being provided by Medicaid, the amount of the recipient's SSI benefit is reduced to no more than \$30 per month, beginning with the first full month of residence. Because nursing home admissions are not always reported promptly to SSA, some SSI recipients receive more benefits than they are entitled to receive in the months following their admission.

House bill

No provision.

Senate amendment

Nursing home administrators would be required to report to SSA the admission of any SSI recipient within two weeks of the recipient's admission, so that SSA can make timely adjustment in the amount of the recipient's SSI benefit.

Effective date.—The provision is effective for admissions to nursing homes occurring on or after October 1, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

SAM GIBBONS,
DAN ROSTENKOWSKI,
J.J. PICKLE,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BILL ARCHER,
JIM BUNNING,
RICK SANTORUM,

Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE.

Managers on the Part of the Senate.

Mr. GIBBONS. Mr. Speaker, I call up the conference report on the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROWLAND). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the conference report be considered as read, and that any points of order against the conference report or its consideration be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. BUNNING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume. I do not intend to take up that much time.

Mr. Speaker, this is a good conference report. The chairman of the subcommittee who handled this legislation is here to go over the fine points and details of it.

Mr. Speaker, I ask that I be permitted to yield the balance of my time to the gentleman from Indiana [Mr. JACOBS], chairman of the subcommittee, who handled this legislation, and that he be permitted to yield such time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1300

PARLIAMENTARY INQUIRY

Mr. JACOBS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ROWLAND). The gentleman will state his parliamentary inquiry.

Mr. JACOBS. Has the gentleman from Kentucky [Mr. BUNNING] been yielded the customary 50 percent of the time?

The SPEAKER pro tempore. The gentleman has been yielded 30 minutes.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by commending my co-chairman, the gentleman from Kentucky [Mr. BUNNING]. It has been a long effort, it has been an entirely cooperative effort, and, therefore, to that extent it has been a pleasant effort to correct the egregious wrong that has occurred by the inadvertence of the U.S. Government to the taxpayers of this country.

Mr. Speaker, almost 2 years ago it was discovered that the threshold for household employers to pay Social Security taxes on domestic workers had remained \$50 for 40 years. Now at the same time the threshold for getting any credit for paying the tax had been more than indexed during those 40 years. Two years ago the Government discovered the error, and got right on it now, and 2 years later, finally, it is being corrected; or, putting it another way, one might say that the wheels of justice will never get a speeding ticket.

This report, this conference report, does the following:

It allows household employers to file their obligations for Social Security taxes on an annual rather than quarterly basis. Moreover it allows them to file those taxes on their 1040 forms that they are filing anyway. It makes the threshold heretofore \$200 per year, \$1,000 per year, and, as a token of apology to the American people, it makes this retroactive to the first day of this year, of 1994, refunds the taxes paid by any household worker or employer on wages that did not cross the threshold of \$1,000.

It has other features such as indexing by \$100 the amount of the threshold into the future. It has a provision dealing with people who do not file 1040 forms alone, but also estimate their taxes because of self-employment.

It has another principal feature, which is correcting an anomaly of a law that was passed in 1980 that forbade Social Security payments to felons in prison. The anomaly was, although I can personally testify that the law in 1980 was intended to deny those same benefits to murderers and other wrongdoers who were declared criminally insane and incarcerated anyway, some have read the statute not to cover those individuals. This would correct that anomaly, and while it is correcting that anomaly, it raises sufficient funds for the trust fund to allow for the change that I have just described, including the retroactive refund for those who do not cross the threshold of \$1,000 for the year 1994.

Mr. Speaker, I look forward with avidity to hearing from my colleague, the gentleman from Kentucky [Mr. BUNNING] who is from where my mother is from, and I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. PETRI] to speak out of order.

DIRTY TRICKS

(By unanimous consent [Mr. PETRI] was given permission to address the House out of order.)

Mr. PETRI. Mr. Speaker, the use of bogus polls to spread ugly rumors is a campaign practice the media and campaign reformers should look into.

Here is how it works: A so-called pollster calls every household and asks a series of questions such as, "Do you plan to vote for Smith or Jones?" "What if you learned that Smith steals candy from children?" "Would that change your vote?" "What if you learned that Smith is fighting four paternity suits and his mother complains he never comes home for Christmas? Would that change your vote?"

Now, obviously, the charges have to be more plausible than those—but they do not have to be true. They can be totally misleading. They are designed to spread ugly rumors.

And you can never find these polls listed in the disclosure forms campaigns are required to file. Instead, separate groups which are allied with a political party do the dirty work technically separately from the actual campaigns.

During the final weeks of the campaign, these bogus pollsters will be calling every household in some areas to spread rumors about candidates' positions on pay raises, Social Security, and who knows what else.

I understand that Wisconsin and Ohio are the greatest victims of this technique. But you can bet it will become nationwide if it is allowed to go unquestioned.

We should tighten the campaign disclosure laws so people will know when

somebody allied with a campaign tries to pull this dirty trick. Or at least, the media should expose it.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, It is a pleasure to be here for Congress' second major piece of Social Security legislation this year, and for the final action in a process that the House started back in March of last year.

This was when the Social Security Subcommittee held the first of the three hearings on the provisions in the conference report.

I would like to commend my colleague, ANDY JACOBS, the chairman of the Social Security Subcommittee, for his diligence, persistence, and perseverance.

He is a pleasure to work with, and I thank him for another great effort.

This legislation addresses three problems. The first is one made famous by the hapless Zoe Baird.

Singlehandedly, Ms. Baird has done more to publicize the law that provides Social Security protection for nannies and other domestic employees than the IRS and the Social Security Administration have been able to do combined.

As a result of the publicity that surrounded Zoe Baird, a lot of hard-working and normally law-abiding American taxpayers woke up to a terrible realization—that they were tax cheats and lawbreakers.

I'm sure that Congress, back in 1951 when domestic workers were first covered under Social Security, never intended to make lawbreakers out of householders who hire cleaning ladies and parents who hire babysitters.

But, that is just what happened when it set the wage threshold at \$50 a calendar quarter, and never provided for any increase as the years went by.

A \$50 quarterly threshold was probably more than adequate back in 1951, and easily exempted the occasional cleaning lady or babysitter earning a \$1 an hour a day or two a month. Today, \$50 is just over a day's pay at minimum wage.

The conference report before us addresses these problems. First, it raises this outdated \$50 in wages paid in a calendar quarter to \$1,000 paid in a year.

Now, I would have preferred a higher amount based on the fact that the \$50 threshold amount was never indexed.

I strongly supported the \$1,800 threshold that was passed by the House last year, only to be stripped from the budget reconciliation bill at the insistence of the Senate—or even the \$1,250 threshold that was in the House version of this legislation.

But I also appreciate the need to protect Social Security eligibility for those who spend their lifetimes cleaning other people's homes—many of whom are low income women.

I believe that the \$1,000 threshold, which will be indexed, should be high enough to protect these employees and still relieve the average householder of the burden of having to report wages of

someone they occasionally employ in their home.

This legislation exempts teenagers under 18 who babysit or mow lawns.

Because Americans who employ babysitters and cleaning ladies have been expecting Congress to fix this problem for over a year now, I am pleased that the House conferees were successful in making these provisions retroactive to January, 1994.

It took 40 years to recognize and deal with this problem.

Going back to the beginning of this year was the least Congress could do for average Americans who occasionally hire people to look after their children or mow their grass.

The legislation also allows householders who hire domestic workers to report and pay their employees' Social Security taxes as part of their personal tax returns, rather than have to complete all sorts of complicated additional paperwork.

Because it will be easier for householders to pay the Social Security taxes on their domestic workers, more domestic workers will end up getting the same Social Security credit that other workers get toward disability or retirement benefits.

The second provision transfers a small part of the revenues now going into the Social Security retirement trust fund to the disability trust fund.

The Social Security retirement trust, which the actuaries say has enough money to last until 2036 while the disability trust fund will run out of money as early as next spring if we don't act now.

Currently, the disability program pays over \$3 billion a month in benefits to almost 4 million severely disabled workers and their families.

We recognize, however, that this transfer is just a Band-Aid, and that the administration has to take a serious look at why the disability program is in trouble.

We are looking forward to getting the study they have been doing on this serious problem by October of next year.

We will also be closely monitoring SSA's efforts to clear up its disability backlogs and do disability reviews.

In my opinion, SSA's failure to do these reviews and take nondisabled people off the rolls has not only contributed to the program's financial problems, but to the public's lack of confidence as well.

There are serious problems at SSA, but it will be an independent agency next year, unfettered by HHS. We will be expecting the leadership of this independent agency to do something about those problems.

The third provision is also overdue. Congress voted—14 years ago—to prohibit payment of Social Security benefits to criminals like the Son of Sam, who are being completely supported at the taxpayers' expense as they serve out their time behind bars.

This provision likewise prohibits payment of benefits to those who have committed terrible crimes, but who are found not guilty by reason of insanity, and are institutionalized at taxpayers' expense instead of imprisoned.

To allow the criminally insane to collect benefits is an affront to the families of the victims of their terrible acts, as well as to hard-working taxpayers.

Mr. Speaker, it has been a long haul, but we have finally taken action on problems that have been around a long time.

This legislation will help millions of average Americans do the right thing for those they employ to care for their children or clean their homes.

It will help ensure that the millions of severely disabled Americans and their families will continue to receive benefits without worry.

And it will stop benefits to the criminally insane who are already institutionalized at taxpayers' expense.

I am pleased that we are considering this important legislation today, and I urge its speedy passage.

□ 1310

Mr. Speaker, I reserve the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I omitted one point that the world, or at least this part of it, ought to know, and that is that this bill also exempts all domestic workers under the age of 18 except in the case of a young person who works full-time, perhaps as a child, works full-time, has not reached the age of 18. That person would be covered under the payment of the taxes and the \$1,000 threshold.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. KENNELLY).

(Mrs. KENNELLY asked and was given permission to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, the conference report before us contains a measure which will help thousands of workers across the country. It will update the threshold at which employers must start paying taxes for their domestic employees. This is what we now call the nanny tax. It is much-needed legislation, and it is long overdue.

The nanny tax threshold was set more than 40 years ago and remains to this very day, until this very moment, artificially low. Today, if you use a baby-sitter or someone to mow your lawn on a regular basis, you probably owe this tax. And while the law was never meant to address the 14-year-old baby-sitter, that is exactly what it has done.

It is necessary that we safeguard people who perform domestic work. The law was never about the person who shovels your walk, or the person who mows your lawn, or about the baby-sitter. It was about people who proudly, with dignity, do domestic work.

When employees fail to pay this tax, workers who have multiple employers can find themselves ineligible for benefits after a lifetime of work. This is not right, and this legislation will change this.

This conference report raises the threshold at which taxes must be paid to \$1,000 annually, and requires the taxes to be filed only once a year. Can you imagine, and some of you can, what it is like to have to file a tax for your domestic worker four times a year? Anyone who has tried to do it can truly understand why many did not. The IRS code had become anachronistic in this whole area. And as a result of the law becoming outdated, people who worked day in and day out, and worked hard, but who worked for a number of employers, were not getting their Social Security taxes paid correctly.

As I stand here today, I hear about the gridlock. I hear about how Congress does not know how to do anything. I hear about how we cannot move forward and help the American people.

The nanny tax is an example where we can, in a bipartisan fashion, make it easier for the American people to do their duty and obey the law. With this legislation, we make it much less likely that someone who wakes up in the morning and works maybe 5 days a week, sometimes 7 days a week, at domestic work, proudly, will find that their employer has not paid the Social Security tax.

We have achieved this in a bipartisan fashion. We have achieved it in a bipartisan fashion in the House of Representatives, and we have achieved it in a bipartisan fashion on the Senate side. We have achieved this without loading it up with a number of amendments. And we have achieved it in the way we should legislate.

□ 1320

We are passing legislation that may not get much attention in the newspapers or the media who say we cannot do anything, but it will be noticed by the thousands upon thousands of domestic workers who now can count on the fact that their employer only has to fill out one form, once a year, when they do their income tax return.

Numerous Members contributed to this success.

I stand here and thank the acting chairman of our committee, the gentleman from Florida (Mr. GIBBONS), to thank the gentleman from Indiana (Mr. JACOBS), who truly understood what was happening here, and to thank Mr. ARCHER and Mr. BUNNING on the other side of the aisle. I'd like also to offer my thanks to Mrs. MEEK, whose commitment to this legislation is second to none, and Mr. HOUGHTON, who was also instrumental in passage of this bill and he is to be commended. I thank Senator MOYNIHAN for his help, and all the other people involved. This bill is not for the elite of America, this is not for

the well-known names, it is for the working men and women who have to count on their Social Security. This is for working people. It is also for the men and women of America who want to obey the law and just cannot quite figure out the forms and the back and the forth and the up and the down. With this change, they can be law-abiding citizens.

Mr. Speaker, this is a solid achievement and should be recognized as such.

Mr. BUNNING. Mr. Speaker, I yield 4 minutes to the gentleman from Texas, (Mr. ARCHER), the ranking member on the full Committee on Ways and Means.

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of H.R. 4278 with a great deal of compliments and accolades to both the chairman of the Subcommittee on Social Security, the gentleman from Indiana (Mr. JACOBS), and the ranking Republican, the gentleman from Kentucky, (Mr. BUNNING). I also want to note that another member of our committee, the gentleman from New York (Mr. HOUGHTON), contributed a great deal toward the development of this bill.

It is truly a bipartisan bill. It is something that needs to be done, actually has needed to be done for a long time to correct a situation where one of the Nation's basic laws has been in effect but not effective. Because we are not dealing with business people who are used to the process of withholding from the payroll of employees. We are dealing with people who are average citizens in the home, employing other average citizens in the home, employing other average citizens to do work in the home.

This bill corrects the problem by streamlining and simplifying the process for the employer, makes it easier to understand and to comply with the law, and sets a threshold below which it is not necessary to go through the administrative red tape because the numbers are so low that the cost of administration does not justify the added effort. So it is long overdue and something that I believe would serve the benefit of both the person who employs someone in the home and the person who works in the home.

In addition, as the chairman of the subcommittee knows for many, many years I have devoted a great deal of attention to Social Security, along with him, to attempt to shore up and stabilize the fund so that Americans could have more confidence in it. There is a part of this bill that has been alluded to that is exceedingly important, that takes away Social Security benefits from the criminally insane who are already being supported by the taxpayers while institutionalized.

The injustice of paying benefits to such individuals has cried out for correction for many, many years. This bill

finally corrects it, and takes that load off of the Social Security fund. In doing so, it helps to stabilize it for the future.

So on all counts, this bill makes sense. It is in the interest of the taxpayers. It is in the interest of the Social Security beneficiaries. It is in the interest of all Americans, and I urge its adoption.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the ranking member of the Committee on Ways and Means for the outstanding job that he has done on our committee. He mentioned shoring up Social Security has been one of his priorities since he first was ranking on the Subcommittee on Social Security. He has worked actively on Social Security issues for over a decade. I want to thank him for his leadership and guidance, particularly on this bill, and all the bills that we take up in the Subcommittee on Social Security.

It is a pleasure to be here, Mr. Speaker, for Congress' second major piece of Social Security legislation this year, and for the final action in a process that the House started back in March of last year. This was when the Social Security Subcommittee held the first of the three hearings on the provisions in the conference report. I would like to commend my colleague, ANDY JACOBS, the chairman of the Social Security Subcommittee, for his diligence, persistence, and perseverance. He is a pleasure to work with, and I thank him for another great effort.

This legislation addresses three problems.

The first is one made famous by the hapless Zoe Baird. Singlehandedly, Ms. Baird has done more to publicize the law that provides Social Security protection for nannies and other domestic employees than the IRS and the Social Security Administration have been able to do combined.

As a result of the publicity that surrounded Zoe Baird, a lot of hard working and normally law-abiding American taxpayers woke up to a terrible realization—that they were tax cheats and law breakers.

I am sure that Congress, back in 1951 when domestic workers were first covered under Social Security, never intended to make law breakers out of householders who hire cleaning ladies and parents who hire babysitters. But, that just what happened when it set the wage threshold at \$50 a calendar quarter, and never provided for any increase as the years went by.

A \$50 quarterly threshold was probably more than adequate back in 1951, and easily exempted the occasional cleaning lady or babysitter earning a dollar an hour a day or two a month. Today, \$50 is just over a day's pay at minimum wage.

The conference report before us addresses these problems. First, it raises this outdated \$50 in wages paid in a calendar quarter to \$1,000 paid in a year.

Now, I would have preferred a higher amount based on the fact that the \$50 threshold amount was never indexed. I strongly supported the \$1,800 threshold that was passed by the House last year, only to be stripped from the budget reconciliation bill at the insistence of the Senate—or even the \$1,250 threshold that was in the House version of this legislation.

But I also appreciate the need to protect Social Security eligibility for those who spend their lifetimes cleaning other people's homes—many of whom are low-income women. I believe that the \$1,000 threshold, which will be indexed, should be high enough to protect these employees and still relieve the average householder of the burden of having to report wages of someone they occasionally employ in their home. This legislation exempts teenagers under 18 who babysit or mow lawns.

Because Americans who employ babysitters and cleaning ladies have been expecting Congress to fix this problem for over a year now, I am pleased that the House conferees were successful in making these provisions retroactive to January 1994. It took 40 years to recognize and deal with this problem. Going back to the beginning of this year was the least Congress could do for average Americans who occasionally hire people to look after their children or mow their grass.

The legislation also allows householders who hire domestic workers to report and pay their employees' Social Security taxes as part of their personal tax returns, rather than have to complete all sorts of complicated additional paperwork. Because it will be easier for householders to pay the Social Security taxes on their domestic workers, more domestic workers will end up getting the same Social Security credit that other workers get toward disability or retirement benefits.

The second provision transfers a small part of the revenues now going into the Social Security retirement trust fund, which the actuaries say has enough money to last until 2036, to the disability trust fund, which will run out of money as early as next spring if we do not act now. Currently, the disability program pays over \$3 billion a month in benefits to almost 4 million severely disabled workers and their families. We recognize, however, that this transfer is just a bandaid, and that the administration has to take a serious look at why the disability program is in trouble. We are looking forward to getting the study they have been doing on this serious problem by October of next year.

We will also be closely monitoring SSA's efforts to clear up its disability backlogs and do disability reviews. In my opinion, SSA's failure to do these reviews and take nondisabled people off the rolls has not only contributed to the program's financial problems, but to the public's lack of confidence as well. There are serious problems at

SSA, but it will be an independent agency next year, unfettered by HHS. We will be expecting the leadership of this independent agency to do something about those problems.

The third provision is also overdue. Fourteen years ago, Congress voted to prohibit payment of Social Security benefits to criminals like the Son of Sam, who are being completely supported at the taxpayer's expense as they serve out their time behind bars.

This provision likewise prohibits payment of benefits to those who have committed terrible crimes, but who are found not guilty by reason of insanity, and are institutionalized at taxpayers' expense instead of imprisoned. To allow the criminally insane to collect benefits is an affront to the families of the victims of their terrible acts, as well as to hard-working taxpayers.

Mr. Speaker, it has been a long haul, but we have finally taken action on problems that have been around a long time. This legislation will help millions of average Americans do the right thing for those they employ to care for their children or clean their homes. It will help ensure that the millions of severely disabled Americans and their families will continue to receive benefits without worry. And it will stop benefits to the criminally insane who are already institutionalized at taxpayers' expense. I am pleased that we are considering this important legislation today, and I urge its speedy passage.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I appreciate the opportunity to be here today, in support of the conference agreement on what has become known as the nanny tax.

Mr. Speaker, when people think about the problem that average citizens have had reporting and paying the Social Security taxes on domestic workers, they usually think in terms of younger families who employ babysitters to look after their children while they work, or enjoy an occasional night out.

In fact, this has been a problem for many senior citizens as well. Many of us know from watching our own parents and grandparents that, as people get older, they fight to retain the dignity that comes from being independent. They do not want to burden their children, who are busy trying to raise their own families—or who live too far away to provide regular help. So, they hire individuals to come into their home to do some of the tasks that they find difficult to do—clean the house, take care of the lawn, things like that.

As we know Mr. Speaker, senior citizens are among our most law-abiding citizens. They want to do the right thing. And they know better than anyone the value of earning enough Social Security credit to qualify for benefits in retirement. Unfortunately, up until now it was very difficult for them to do

the right thing when it came to paying the Social Security tax on domestic workers they hire because of all of the extra, complicated paperwork they have been required to complete four times a year in addition to their annual tax return.

Mr. Speaker, this legislation streamlines the whole process of paying Social Security taxes on domestic workers by raising the threshold to \$1,000 a year instead of \$50 a quarter, and, more importantly, by doing away with burdensome quarterly returns, and allowing householders—young and old—to pay the tax on their personal tax return. By so doing we will be removing the worry of dealing with burdensome paperwork every 3 months from the minds of senior citizens who want to do the right thing as taxpayers when they hire domestic workers who help them to remain independent.

In closing, I commend the gentleman from Kentucky for his efforts and leadership on this legislation, and I join with him and my colleagues in urging its speedy passage.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, I would like to thank my colleague, the gentleman from Kentucky [Mr. BUNNING], who has been so helpful on this whole process and also to the chairman of the subcommittee, the gentleman from Indiana [Mr. JACOBS], who has been so wonderful as well.

I would like to take issue with my colleague from Connecticut who said today's piece of legislation is an indication of how well Congress works. To the contrary, I think it is an indication of how extraordinarily difficult it can be around here to get the simplest thing done.

My colleague may remember that this all began in January of 1993, when one of the President's Cabinet nominees suddenly discovered she had not paid the Social Security that was due one of her workers for years. What was even more frightening was that Americans all over this country who go to work and pay the bills and try to keep their nose clean discovered that they were breaking the law because they were not filing Social Security payments if they simply paid somebody \$50 in a 3-month period.

In this day and age, if Members have three boys like I do and they go out to the movie once a month and out to dinner and then hire somebody to shovel the snow, bango, they are over the limit and they have broken the law.

So in February of 1993, I introduced one of the first variations of legislation to try to fix this problem and worked very closely with a number of my colleagues around the House. And within a couple of weeks, we had more than 50 cosponsors to try to solve the problem, which included annual reporting, as today's bill does, which required also an annual cost-of-living increase, as today's piece of legislation does. And

then we found ourselves amazingly in front of the Committee on Ways and Means doing hearings, and it seemed like full steam ahead.

Then it was in the budget bill, and then it got stripped out last year in a conference fight with the Senate.

□ 1330

Then we found ourselves in February of 1994, nearly a year after the original bills had been introduced, nearly a year after the first hearings had begun, and we were stalled out. And so at that point, my colleagues, the gentleman from Oregon [Mr. KOPETSEI], and the gentleman from Wisconsin [Mr. KLECZKA], both Democrats, and the gentleman from Pennsylvania [Mr. SANTORUM], also on the Committee on Ways and Means, a friend of mine, began to try to urge the Senator from New York [Mr. MOYNIHAN] and our colleagues in the other body to get moving so we could finally get this done. We almost found ourselves in a situation again this week where it died in conference once again, where we had a \$1,800 threshold, a \$1,200 threshold, a \$1,000 threshold and a \$670 threshold.

In a final gesture to good, common sense and in a final tribute again to my colleagues from Kentucky and Indiana who managed to stick with this and bulldog all the way, we find ourselves with a very important piece of legislation today which solves the problem which says you have an annual \$1,000 standard, a cost of living increase, and for the millions of Americans who discovered way back in January of 1993 they were law-breakers will discover when they file their income taxes next April, they are no longer law-breakers, in fact they can comply with a law which is now meaningful and intelligent and much more germane in 1994 than the 1950's piece of legislation we found ourselves with.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], a member of the subcommittee, who has done an exceptional amount of work on this legislation.

Mr. HOUGHTON asked and was given permission to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, I would like to talk about a couple of individuals. First of all, the gentleman from Kentucky [Mr. BUNNING] and the gentleman from Indiana [Mr. JACOBS]. They have done an extraordinary job. But I have got to talk about the people that I have worked very closely with on this, the gentlewoman from Florida [Mrs. MEEK] and the gentlewoman from Connecticut [Mrs. KENNELLY]. They really have stuck to this, they put their heart into it, and I would like to feel that they were of help to the gentleman from Kentucky [Mr. BUNNING] and the gentleman from Indiana [Mr. JACOBS] in pulling off this legislative coup which we thought was going to down the drain about 24 hours ago.

Very briefly, I happen to be an optimist. I know that it is difficult to get legislation through here, having seen what happened to GATT and the delay of that, the fact that this could come to a conclusion, I am really very happy about. Some people could think this is not in the league of finance reform or of crime legislation or things like that, but I think it is very important. There was a problem out there, it was not being fixed. Not only were people not paying their taxes, but also, very importantly, those making a minimum amount of wage were not getting Social Security credit, and not really understanding it. The solution was there, the package was put together, I think it is a good bill, and I very strongly support the conference report on H.R. 4278.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from New York [Mr. HOUGHTON], my colleague on the subcommittee, for his remarks and for his continued support during this process. He has been extremely concerned about getting the nanny tax problem solved.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I want to thank him for his valiant efforts on the part of hard-working Americans who will benefit from this change in the law, and also the gentleman from Indiana [Mr. JACOBS] on the Democratic side, I thank him for his unyielding efforts to get this law simplified.

The Members of the Congress now have an opportunity to do something that we seldom do here, and, that is, to make the lives of many hard-working Americans across this country a little bit simpler, a little bit less complicated, a little bit less burdensome. Usually what we do on this House floor has the opposite effect. But this bill finally is one that can make things better for folks who try to abide by the law, who work hard, and also provide a job for somebody in their community.

My wife works, and so we happen to have someone who comes in and keeps our baby boy. We have gone through this hassle of filing all the forms necessary, and, of course, paying the taxes. It is a real disincentive. I was just talking to another Member who said that when he and his wife had a similar circumstance a few years ago, they hired someone and the hassle was so great that after keeping that person on the job for just a little while, they decided to let the person go, because it just was not worth the hassle. That is the effect of the law that is on the books now that we do not hear about too often, people actually losing jobs because of the hassle that Congress has imposed upon those families who need to have somebody to come into their

home and keep their children during the day.

This bill is a great effort on the part of the members of the Committee on Ways and Means who have worked so hard to make this provision in the law less complicated and it is a great opportunity for all of us as Members of the House and Members of the Congress to do something that will not only make lives less complicated in this country but also give the opportunity for more people to go to work in this country. Any time we can do that, we ought to do it.

I urge all of my colleagues to vote in favor of this legislation.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to conclude our side by thanking the chairman of the Subcommittee on Social Security for his extreme hard work in solving some of the problems in the conference, and the staff that worked with him on solving those problems.

It is not easy to come out with the numbers that we came out with, but it is only through our chairman's hard work that we were able to accomplish this. I really cannot say enough kind things about the gentleman from Indiana [Mr. JACOBS] and the hard work that he has done on this. I think generally speaking that is how good bipartisan legislation comes about. I know the gentleman in the chair also has had a lot of experience in that. I would like to thank everybody involved in this whole piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before making the customary motions, I too would like to express specifically my gratitude first of all to the gentleman from Kentucky [Mr. BUNNING]. It is just a pure pleasure and an example I think to all Members of the Congress and really all citizens of our country that if you are a different religion, if you are of a different party or whatever, if we truly do all want the same things, namely, justice, fairness, civility, that you can do it even with honest difference of opinion in a very pleasant way. That has been my experience working with the gentleman from Kentucky.

None of God's children is a waste of skin. My mother's favorite quotation is from an old Senator. I think, from Arizona who said, "There is so much good in the worst of us and so much bad in the best of us that it hardly becomes any of us to say very much about the rest of us." That is the best way to legislate. We have honest differences of opinion, although I must say that the gentleman from Kentucky [Mr. BUNNING] and I have gone in lockstep on this obvious problem.

I also pay my compliments to the Senator from New York [Mr. MOYNIHAN]. He has been a stalwart both with the independent agency and also in clarifying and straightening this

problem out; and the gentleman from Wisconsin [Mr. KLUG], as has been indicated, has made an enormous contribution, been devoted to the cause, and a number of other people, including the gentleman from Louisiana [Mr. MCCRERY] who spoke here today. I thank those who were kind enough to compliment my own efforts and I return those compliments greatly.

Mr. Speaker, in a free society, the best statecraft is reasonable laws. Reasonable laws will be adhered to because most people that God put on earth are reasonable if you get to know them. Reasonable laws will be obeyed. Unreasonable laws will not be obeyed. Today we have the opportunity to make a law that has been enormously unreasonable reasonable. It is a happy day for all Americans.

GENERAL LEAVE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4278, the legislation under consideration.

The SPEAKER pro tempore (Mr. ROWLAND). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BUNNING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JACOBS. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FORD of Tennessee. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 494]

YEAS—423

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bacchus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett

Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Boraki
Boucher
Brewster

Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay

Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MT)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Esboo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fliner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallely
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Ginrich
Glickman
Gonzalez
Goodlatte
Gooding
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert

Hastings
Hayes
Hefner
Hefner
Herrery
Hilliard
Hinchey
Hoagland
Holtson
Hochbrueckner
Hoeckstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inlee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kapoor
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetick
Kreidler
Kry
LaFalco
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lasio
Leach
Lehrman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machley
Maloney
Mann
Manton
Manzullo
Martinez-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrary
McCurdy
McDade
McDermott
McHale
McHugh
Melnick
McKeon
McKinney
McMillan

McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinaro
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussie
Oberstar
Obey
Oliver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Porteroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarbanes
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster

Sisisky	Synar	Velkmer
Skaggs	Talent	Vucanovich
Skeen	Tanner	Walker
Skelton	Tauzin	Walsh
Slaughter	Taylor (MS)	Waters
Smith (IA)	Taylor (NC)	Watt
Smith (MI)	Tejeda	Waxman
Smith (NJ)	Thomas (CA)	Weldon
Smith (OR)	Thomas (WY)	Wheat
Smith (TX)	Thompson	Williams
Snowe	Thornton	Wilson
Solomon	Thurman	Wise
Spence	Torkildsen	Wolf
Spratt	Torres	Woolsey
Stearns	Torricelli	Wyden
Stenholm	Towns	Wynn
Stokes	Trafficant	Yates
Strickland	Unsoeld	Young (AK)
Studds	Upton	Young (FL)
Stump	Valentine	Zeliff
Stupak	Velazquez	Zimmer
Sweet	Vento	
Swift	Visclosky	

NOT VOTING—11

Applegate	Gallo	Tucker
Bentley	Slattery	Washington
Coyne	Stark	Whitten
Dingell	Sundquist	

□ 1402

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SOCIAL SECURITY DOMESTIC EM-
PLOYMENT REFORM ACT OF
1994—CONFERENCE REPORT

Mr. MOYNIHAN. Mr. President, I submit a report of the committee of conference on H.R. 4278 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1994.)

Mr. MOYNIHAN. Mr. President, I am pleased to bring to the floor today the conference report on H.R. 4278, the Social Security Domestic Employment Reform Act of 1994. Earlier today the House voted to approve the report by a recorded vote of 423 to 0.

Let me begin by thanking the distinguished ranking minority member of the Finance Committee, Senator PACKWOOD, for his assistance in bringing this bill to enactment.

Indeed, I would be remiss if I failed to note that there has been remarkable support for this legislation on both sides of the aisle. Senators will recall that on May 12 of this year H.R. 4278 was passed by the House of Representatives by a recorded vote of 420 to 0. It passed the Senate on May 25 by unanimous consent.

This conference agreement, which the House and Senate conferees concluded just late yesterday, updates and increases the \$50 wage threshold used since 1961 to determine whether an employer must pay Social Security taxes on wages paid to domestic employees.

It repeals the current requirements for quarterly filing of domestic employment taxes. Henceforth, employers will be able to file annual reports of the domestic wages they have paid during the year at the same time they file their personal income tax returns.

Finally, this legislation exempts from Social Security taxes the wages paid to domestic workers under the age of 18, with the exception of a young worker whose principal employment is domestic service. Thus it completely exempts wages paid to the teenager who is the occasional babysitter or who mows the neighbor's lawn.

As events of the last 2 years have shown, these changes are long overdue. The Department of the Treasury estimates that fewer than one-quarter of employers report the wages they pay to their domestic employees. This widespread problem of noncompliance in payment of Social Security taxes for domestic employees was brought to the attention of the public by the unhappy experience of several nominees for high government office.

But the most unfortunate effect of the current law is the fact that many thousands of domestic workers have not been receiving the Social Security wage credits they have rightfully

earned. This is a most serious denial of fairness that cannot go untended.

The \$50-per-quarter threshold for domestic employees was adopted in 1950, some 44 years ago. At a hearing by the Committee on Finance on July 21, 1993, every witness who appeared supported increasing the threshold and simplifying the wage reporting requirements. Among those testifying was Robert J. Myers, Chief Actuary of the Social Security Administration for 23 years, who told the committee that legislation to this effect would greatly improve coverage compliance for domestic workers. The committee heard similar testimony from the Department of the Treasury.

Under the conference report, beginning in 1995 the threshold will increase to \$1,000. In subsequent years the threshold will be adjusted for growth in wages, with increases occurring in \$100 increments.

In addition, the conference report simplifies the way employers can pay the taxes they owe on wages they pay to domestic employees. Currently, these employers must sit down every 3 months, figure their payroll taxes, and write a check to the IRS for the amount due. Under the conference report, for 3 years—1995, 1996, and 1997—employers will be able to pay the payroll taxes they owe on wages paid to their domestic employees at the end of the year, when they file their personal income tax returns. In subsequent years, employers will be allowed either to increase the rate of withholding from their own salaries to cover their anticipated payroll tax liability on wages paid to domestic employees or to make quarterly estimated tax payments.

The conference report includes other improvements in the Social Security program.

It prohibits payment of Social Security benefits to individuals who are found to be not guilty of an offense by reason of insanity, but who are, as a result of such a verdict, confined in a public institution. This extends to these individuals the same rule that applies to Social Security beneficiaries who are confined in correctional facilities after having been convicted of a felony offense.

There are also two provisions concerning overpayments. One will help prevent them from happening in the first place, and the second will allow the Social Security Administration to use additional procedures to recover overpayments after they have been made.

More specifically, nursing homes will be asked to help prevent overpayments that sometime occur when Supplemental Security Income recipients are first admitted by requiring the nursing home to report the admission of these recipients within 2 weeks of the date of admission. Under the law, a SSI recipient's benefit is reduced to \$30 per month while in a nursing home, be-

cause the cost of care is being paid by Medicaid.

The conference report also strengthens SSA's ability to recover overpayments by giving the agency the same authority to use certain debt collection tools that are currently used by other Federal agencies. Under this provision, the Social Security Administration will be able to recover debts owed by former Social Security beneficiaries by withholding other Federal payments to which the debtor is entitled, by reporting delinquent debtors to credit reporting agencies, and by hiring private debt collection agencies to recover outstanding obligations.

The conference report assures the solvency of the disability insurance program by allocating a greater portion of Social Security taxes to the Disability Insurance Trust Fund. This reallocation was necessitated by the recent growth in the disability rolls, a phenomenon which is not yet fully understood. The conferees agreed to require the Commissioner of Social Security to conduct a study of the rising costs of the disability program and to report to the Congress by October 1, 1995, on the findings of the study and any recommendations for legislative changes.

Mr. President, passage of this legislation is long over due. I ask that my colleagues join me in supporting the conference report on H.R. 4278.

Mr. President, I ask unanimous consent that the conference report be agreed to; that the motion to reconsider laid on the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed.

Mr. MOYNIHAN. Mr. President, may I say, indeed, at long last, after 44 years, we have decriminalized baby-sitting.

H.R.4278 As finally approved by the House and Senate (Enrolled)

H. R. 4278
One Hundred Third Congress

of the

United States of America

A T T H E S E C O N D S E S S I O N

Begun and held at the City of Washington on Tuesday, the twenty-fifth day of
January, one thousand nine hundred and ninety-four

An Act

To make improvements in the old-age, survivors, and disability insurance
program under title II of the Social Security Act.

=====

Be it enacted by the Senate and House of Representatives of the United
States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Domestic Employment Reform
Act of 1994".

**SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC
SERVICES.**

(a) Threshold Requirement for Social Security Taxes.--

(1) Amendments of internal revenue code.--

(A) General rule.--Subparagraph (B) of section 3121(a)(7) of the
Internal Revenue Code of 1986 (defining wages) is amended to read as
follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;" .

(B) Applicable dollar threshold.--Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(x) Applicable Dollar Threshold.--For purposes of subsection (a)(7)(B), the term 'applicable dollar threshold' means \$1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such \$1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If any amount as adjusted under the preceding sentence is not a multiple of \$100, such amount shall be rounded to the next lowest multiple of \$100." .

(C) Employment of domestic employees under age 18 excluded from coverage.--Section 3121(b) of such Code (defining employment) is amended--

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) domestic service in a private home of the employer which--

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee." .

(D) Conforming amendments.--The second sentence of section 3102(a) of such Code is amended--

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "\$50" and inserting "the applicable dollar threshold (as defined in section 3121(x)) for such year".

(2) Amendment of social security act.--

(A) General rule.--Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;"

(B) Employment of domestic employees under age 18 excluded from coverage.--Section 210(a) of such Act (42 U.S.C. 410(a)) is amended--

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) Domestic service in a private home of the employer which--

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee."

(3) Effective dates.--

(A) In general.--Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) Excluded employment.--The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

(4) No loss of social security coverage for 1994; continuation of w-2 filing requirement.--Notwithstanding the amendments made by this subsection, if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than \$1,000--

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any such wages required to be included on any such return or statement.

(b) Coordination of Collection of Domestic Service Employment Taxes With Collection of Income Taxes.--

(1) In general.--Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) General Rule.--Except as otherwise provided in this section--

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) Domestic Service Employment Taxes Subject to Estimated Tax Provisions.--

"(1) In general.--Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) Employers not otherwise required to make estimated payments.-- Paragraph (1) shall not apply to any employer for any calendar year if--

"(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

"(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

"(3) Annualization.--Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) Transitional rule.--In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

"(c) Domestic Service Employment Taxes.--For purposes of this section, the term 'domestic service employment taxes' means--

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) Exception Where Employer Liable for Other Employment Taxes.--To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) General Regulatory Authority.--The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) Authority To Enter Into Agreements To Collect State Unemployment Taxes.--

"(1) In general.--The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) Transfers to state account.--Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) Subtitle f made applicable.--For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) State.--For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) Clerical amendment.--The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes." .

(3) Effective date.--The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) Expanded information to employers.--The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) Allocation With Respect to Wages.--Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999, and so reported," and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported," .

(b) Allocation With Respect to Self-Employment Income.--Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999," and inserting "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before

January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999,".

(c) Effective Date.--The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

(d) Study on Rising Costs of Disability Benefits.--

(1) In general.--As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) Matters to be included in study.--In conducting the study under this subsection, the Commissioner of Social Security shall--

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) Report.--Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) In General.--Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended--

(1) in the heading, by inserting "and Certain Other Inmates of Publicly Funded Institutions" after "Prisoners";

(2) by striking "(x)(1) Notwithstanding" and all that flows through the end of paragraph (1) and inserting the following:

"(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual--

"(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

"(ii) is confined by court order in an institution at public expense in connection with--

"(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

"(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

"(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

"(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

"(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

"(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until--

"(I) he or she is released from the care and supervision of such institution, and

"(II) such institution ceases to meet the individual's basic living needs.";

and

(3) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section."

(b) Effective Date.--The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) In General.--Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

"(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

"(2) For purposes of paragraph (1), the term 'delinquent amount' means an amount--

"(A) in excess of the correct amount of payment under this title;

"(B) paid to a person after such person has attained 18 years of age; and

"(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title."

(b) Conforming Amendment.--Section 3701(d) of title 31, United States Code, is amended by inserting ", except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)), " after "the Social Security Act (42 U.S.C. 301 et seq.)".

(c) Effective Date.--The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) In General.--Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a

nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission." .

(b) Effective Date.--The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

SEC. 7. RULE OF CONSTRUCTION.

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.

Speaker of the House of Representatives.

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

Public Law 103-387
103d Congress

An Act

To make improvements in the old-age, survivors, and disability insurance program
under title II of the Social Security Act.

Oct. 22, 1994

[H.R. 4278]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Social Security Domestic Employment Reform Act of 1994”.

Social Security
Domestic
Employment
Reform Act of
1994.
26 USC 1 note.

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

26 USC 3121.

“(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;”.

(B) APPLICABLE DOLLAR THRESHOLD.—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

“(x) APPLICABLE DOLLAR THRESHOLD.—For purposes of subsection (a)(7)(B), the term ‘applicable dollar threshold’ means \$1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such \$1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If any amount as adjusted under the preceding sentence is not a multiple of \$100, such amount shall be rounded to the next lowest multiple of \$100.”.

(C) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 3121(b) of such Code (defining employment) is amended—

- (i) by striking “or” at the end of paragraph (19),
- (ii) by striking the period at the end of paragraph (20) and inserting “; or”, and

(iii) by adding at the end the following new paragraph:

“(21) domestic service in a private home of the employer which—

“(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

“(B) is not the principal occupation of such employee.”.

(D) CONFORMING AMENDMENTS.—The second sentence of section 3102(a) of such Code is amended—

(i) by striking “calendar quarter” each place it appears and inserting “calendar year”, and

(ii) by striking “\$50” and inserting “the applicable dollar threshold (as defined in section 3121(x)) for such year”.

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) GENERAL RULE.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

“(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;”.

(B) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(i) by striking “or” at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting “; or”, and

(iii) by adding at the end the following new paragraph:

“(21) Domestic service in a private home of the employer which—

“(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

“(B) is not the principal occupation of such employee.”.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

(4) NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994; CONTINUATION OF W-2 FILING REQUIREMENT.—Notwithstanding the amendments made by this subsection, if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than \$1,000—

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any

26 USC 3102
note.

26 USC 3102
note.

such wages required to be included on any such return or statement.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

“(a) GENERAL RULE.—Except as otherwise provided in this section—

“(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

“(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer’s taxable year which begins in such calendar year, and

“(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

“(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

“(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

“(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

“(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

“(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

“(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

“(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

“(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term ‘domestic service employment taxes’ means—

“(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

“(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "Decem-

26 USC 3510
note.

26 USC 3510
note.

ber 31, 1999, and so reported,” and inserting “(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported.”

(b) **ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.**—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended by striking “(O) 1.20 per centum” and all that follows through “December 31, 1999,” and inserting “(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

42 USC 401 note.

(d) **STUDY ON RISING COSTS OF DISABILITY BENEFITS.**—

(1) **IN GENERAL.**—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) **MATTERS TO BE INCLUDED IN STUDY.**—In conducting the study under this subsection, the Commissioner of Social Security shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) **REPORT.**—Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) **IN GENERAL.**—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting “and Certain Other Inmates of Publicly Funded Institutions” after “Prisoners”;

(2) by striking “(x)(1) Notwithstanding” and all that follows through the end of paragraph (1) and inserting the following:
 “(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual—

“(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

“(ii) is confined by court order in an institution at public expense in connection with—

“(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

“(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

“(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

“(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

“(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

“(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

“(I) he or she is released from the care and supervision of such institution, and

“(II) such institution ceases to meet the individual’s basic living needs.”;

and

(3) in paragraph (3), by striking “any individual” and all that follows and inserting “any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) **IN GENERAL.**—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

“(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

“(2) For purposes of paragraph (1), the term ‘delinquent amount’ means an amount—

“(A) in excess of the correct amount of payment under this title;

“(B) paid to a person after such person has attained 18 years of age; and

“(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.”

(b) **CONFORMING AMENDMENT.**—Section 3701(d) of title 31, United States Code, is amended by inserting “, except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)),” after “the Social Security Act (42 U.S.C. 301 et seq.)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

31 USC 3701
note.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) **IN GENERAL.**—Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

“(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

42 USC 1383
note.

42 USC 402 note. **SEC. 7. RULE OF CONSTRUCTION.**

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4278 (S. 1231):

HOUSE REPORTS: Nos. 103-491 (Comm. on Ways and Means) and 103-842 (Comm. of Conference).

SENATE REPORTS: No. 103-252 accompanying S. 1231 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 140 (1994):

May 10, 12, considered and passed House.

May 25, considered and passed Senate, amended, in lieu of S. 1231.

Oct. 6, House and Senate agreed to conference report.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

June 28, 1994

The Honorable Daniel Patrick Moynihan
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Administration on H.R. 4278, the "Social Security Act Amendments of 1994," as passed by the House and the Senate.

The Administration strongly supports the enactment of this legislation. The legislation would dramatically simplify the payment of employment taxes on behalf of household employees. We believe this legislation will be a significant step toward improving compliance among household employers, thus expanding coverage for household workers. We have the following suggestions as the conferees meet to reconcile the relatively minor differences in the House and Senate versions of the legislation.

Central to simplification is modifying the threshold for household employees. The House version increases the threshold to \$1,250 while the Senate amendment sets the threshold at the amount required for a quarter of coverage (estimated to be \$640 in 1995, in the 1994 Social Security Trustees' report). As the Administration previously testified, we believe that an even \$1,000 threshold would provide significant administrative advantages because it is easier for taxpayers to remember and to calculate from year to year.

Both the House and Senate versions would provide for periodic increases in the threshold to prevent a recurrence of problems that resulted from the current outdated threshold, although the indexing mechanisms in the House and Senate versions differ somewhat. We would suggest an indexing method that would raise the threshold in even dollar amounts, such as \$200 or \$500 increments. For example, using either a \$200 or \$500 indexing method, a \$1,000 threshold would be indexed to \$1,200 after five years or to \$1,500 after eleven years, assuming a four percent annual increase in wages. This type of procedure would retain the benefits of indexing but would also help reduce taxpayer confusion and administrative complexity resulting from more frequent changes to the wage threshold.

The effective dates of the House and Senate versions also differ and we believe that the Senate's 1995 effective date better serves the effective administration of the tax system. The Administration does not support the House bill's retroactive relief for years 1993 and 1994. This provision rewards household employers who have not complied with the law. Moreover, because employers who did comply are precluded from obtaining a refund, these taxpayers are punished. In addition, the provision would create severe administrative problems for the Internal Revenue Service.

With respect to the treatment of household workers under age 18, the Administration prefers the position in the House bill. We have concerns that the exemption provided in the Senate amendment would create disparities between teenagers performing household work and those who work for a trade or business. We believe that the increased threshold adequately addresses concerns about occasional employment for minimal wages. In any event, if a teenager exemption is included, we suggest that the conferees consider whether it would be appropriate to lower the age for exemption.

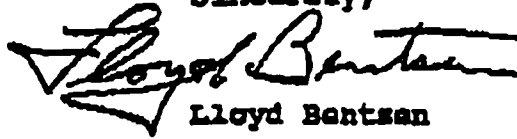
With respect to the treatment of household employment taxes for estimated tax purposes, the Administration supports the House provision that would enable taxpayers to satisfy their household employment tax obligations through regular estimated tax payments or increased tax withholding from their own wages. The Senate version could result in taxpayers facing a large lump sum employment tax payment with their annual return, which could in turn discourage compliance. Unlike the current exceptions to the estimated tax rules for certain one-time occurrences, household employment taxes are a predictable, annual amount for which the taxpayer can plan.

We also would suggest that the conference agreement clarify that the Secretary of the Treasury has regulatory authority to allow States to continue to pay the employment taxes for certain public assistance recipients who employ household workers. Several States have agency agreements under which the State handles the appropriate Federal employment taxes for household workers employed by public assistance recipients under state programs.

The Administration strongly supports adoption of the Disability Insurance payroll tax rate reallocation schedule as included in the House Version. We view this as urgent because the DI Trust Fund is projected to be exhausted next year. The Administration also supports the debt collection authority provision of the Senate amendment. This provision is consistent with the recommendation contained in the Vice President's National Performance Review Report.

This legislation is consistent with the program of the President to promote sensible and equitable administration of the internal revenue laws. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to Congress.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lloyd Bentsen". The signature is written in dark ink and is positioned above the printed name.

Lloyd Bentsen



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

Oct. 13, 1994

The Honorable Alice M. Rivlin
Director, Office of Management
and Budget
Washington, DC 20503

Dear Mrs. Rivlin:

This responds to your request for our views on H.R. 4278, an enrolled bill "To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act." Upon enactment, the bill would be cited as the "Social Security Domestic Employment Reform Act of 1994."

We support enactment of this legislation because it contains significant provisions that are important to the integrity of the social security and supplemental security income programs.

Specifically, the bill would--

- o increase the social security payroll tax threshold on domestic services from \$50 per quarter to \$1,000 annually in 1994 (and index it in later years to increases in average wages) and simplify procedures for reporting and paying tax liabilities on such services;
- o reallocate a portion of the social security payroll tax proceeds from the Old-Age and Survivors Insurance Trust Fund to the Disability Insurance Trust Fund;
- o extend the limitation on payment of social security benefits currently applicable to incarcerated felons to all individuals convicted of an offense punishable by imprisonment of more than one year (regardless of whether the offense was a felony) and to criminally insane individuals who are confined to institutions at public expense by court order in connection with an offense punishable by imprisonment of more than one year;
- o extend to the Social Security Administration, for use in collecting debt arising under the social security program, three debt collection authorities that have been available to other agencies for years: offsetting

Page 2 - The Honorable Alice M. Rivlin

debt administratively, reporting debtors to credit bureaus, and engaging the services of private debt collectors; and

- o require nursing homes to report to the Social Security Administration the admission of any recipient of supplemental security income benefits within two weeks of the recipient's admission, so that the agency can make timely adjustment in the amount of the recipient's benefit.

We support H.R. 4278. We especially support the provisions that bring reasonableness back to social security tax law, and solvency back to the disability insurance program. Accordingly, we recommend that the President approve this legislation.

Sincerely,

/s/ Donna E. Shalala

Donna E. Shalala

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

Number 103-9

March 30, 1994

Federal "Buyout" Legislation

On March 23, 1994, the House adopted the conference report on H.R. 3345, the Federal Workforce Restructuring Act of 1994. The Senate adopted the conference report on March 24. The bill will now go to the President.

The bill would give agency heads temporary authority to offer voluntary separation incentive payments of up to \$25,000 to employees who agree to resign or retire by March 31, 1995. (Exceptions could be granted up to March 31, 1997, if the agency head determined it necessary to delay the employee's separation to ensure the performance of the agency's mission.) Any employee accepting an incentive payment, but rehired by the Federal government within 5 years after separation, would be required to repay the incentive payment to the appropriate agency.

Agencies would be authorized to limit voluntary separation incentive payments to any component of the agency; any occupation; any geographic location; or any combination of these factors.

Senate Markup of Domestic Employment Bill

On March 22, 1994, the Senate Committee on Finance marked up and ordered favorably reported Chairman Moynihan's (D., NY) bill, S. 1231, the "Social Security Domestic Employment Reform Act of 1993". Under the bill:

- o The threshold for coverage of domestic employees' earnings would be raised from \$50 per calendar quarter to an annual amount equivalent to the earnings required that year to earn a quarter of coverage (estimated to be \$630 in 1995);
- o Domestic employees under age 18 would no longer be covered under Social Security; and

- o Wages paid to domestic employees would be reported annually, rather than quarterly. Social Security taxes generally would be due when the employer's income taxes are due, but would not be subject to estimated tax payment requirements.

The domestic employment provisions would apply to wages paid after December 31, 1994.

The bill also would:

- o Require nursing homes to notify SSA within 2 weeks after they admit SSI recipients (effective October 1, 1995);
- o Prohibit payment of Social Security benefits to individuals confined in public institutions who have been found not guilty of a felony by reason of insanity or other mental disorder (effective 90 days after enactment); and
- o Authorize SSA to use certain additional debt collection procedures, including reporting delinquent debtors to credit agencies, contracting with private debt collection agencies, and recovering debts by offsetting other Federal payments to which the debtor may be entitled (effective October 1, 1994 through September 30, 1999).

LEGISLATIVE **Bulletin**

SOCIAL SECURITY
ADMINISTRATION

Number 103-11

May 18, 1994

House of Representatives Passes Social Security Legislation

On May 12, under suspension of the rules, the House of Representatives voted 420-0 to pass H.R. 4278, the "Social Security Act Amendments of 1994." H.R. 4278 includes provisions to increase the threshold for coverage of domestic employees' wages, increase the portion of Social Security taxes allocated to the Disability Insurance Trust Fund, and broaden the prisoner nonpayment provisions. The provisions are described in the attachment to Legislative Bulletin Number 103-10.

On May 17, under suspension of the rules, the House of Representatives voted 413-0 to pass H.R. 4277, the "Social Security Administrative Reform Act of 1994." The bill includes provisions to make the Social Security Administration an independent agency and to impose certain restrictions on Disability Insurance and Supplemental Security Income payments to substance abusers. The provisions are described in the attachment to Legislative Bulletin Number 103-10.

Also on May 17, under suspension of the rules, the House of Representatives passed by voice vote H.R. 3419, the "Tax Simplification and Technical Corrections Act of 1993." The bill contains a number of minor and technical provisions affecting the Social Security and SSI programs. The bill includes the Social Security-related provisions described in Legislative Bulletin Number 103-6.



LEGISLATIVE **Bulletin**

SOCIAL SECURITY
ADMINISTRATION

Number 103-13

May 26, 1994

Senate Passes Domestic Employment Legislation

On May 25, 1994, the Senate approved, by voice vote, H.R. 4278 (Jacobs), which includes a provision to increase the threshold for coverage of domestic employees' wages. The Senate struck the language of the bill as passed by the House (see Legislative Bulletins Nos. 103-10 and 103-11) and inserted the text of S. 1231 (Moynihan), as approved by the Senate Finance Committee (see Legislative Bulletin No. 103-9).

The major difference between the House and Senate domestic employment provisions is that the House version raises the coverage threshold to \$1,250 in 1995, indexed in later years to increases in average wages, while the Senate version raises the threshold to an annual amount equivalent to the earnings required that year to earn a quarter of coverage (estimated to be \$640 in 1995).

The Senate has requested a conference with the House and has appointed the following conferees: Senator Moynihan (D., NY), Senator Baucus (D., MT), Senator Breaux (D., LA), Senator Packwood (R., OR), and Senator Dole (R., KS). House conferees have not been appointed.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

Number 103-16

October 13, 1994

HOUSE AND SENATE APPROVE NANNY TAX BILL CONFERENCE REPORT

On October 6, 1994, both the House and the Senate approved the conference report on H.R. 4278, the Social Security Domestic Employment Reform Act of 1994, clearing the legislation for the President's approval. The House passed the measure by a vote of 423-0. The Senate passed the report by voice vote. As passed, H.R. 4278 provides for the following:

Simplification of Employment Taxes on Domestic Service

- o The threshold for coverage of domestic employees' earnings paid per employer is raised from \$50 per calendar quarter to \$1,000 in calendar year 1994. In calendar years after 1995, this amount will increase in \$100 increments as average wages increase.
- o In cases where domestic employees were paid less than \$1,000 in 1994, their employers must report the earnings on form W-2 and the employees will receive credit under Social Security for the wages. (However, no Social Security taxes are payable on these wages.)
- o Instead of being treated as agricultural employees, domestic employees on farms operated for profit are treated like other domestic employees and their earnings are subject to the new threshold instead of the threshold applicable to agricultural employees.
- o Beginning with calendar year 1995, domestic employees will no longer be covered under Social Security in any year before they reach age 18 unless their principal occupation is household employment.
- o In cases where the employer has only domestic employees, wages paid to those employees will be reported annually, rather than quarterly, on the employer's personal income tax return, and Social Security employer and employee taxes will be subject to quarterly estimated tax payment requirements.

These provisions are effective with respect to remuneration paid in calendar years beginning after 1994.

Allocations to the Disability Insurance (DI) Trust Fund

- o Allocates a greater portion of the OASDI tax rate (0.94 percent instead of 0.60 percent) to the DI Trust Fund for 1994 through 1996. For 1997 through 1999, the DI reallocation will be increased from the currently scheduled 0.60 percent to 0.85 percent. Beginning with 2000, the DI Trust Fund allocation will be 0.90 percent instead of the currently scheduled 0.71 percent.

These provisions are effective with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

Nonpayment of Benefits to Individuals Found Not Guilty by Reason of Insanity

- o Extends the current prisoner nonpayment provision to all individuals confined to a jail, prison, or other penal institution or correctional facility pursuant to a conviction of a crime punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed). Suspension will also apply to beneficiaries confined by court order in an institution at public expense in connection with a finding that the individual is: guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year; not guilty of such an offense by reason of insanity or by reason of similar factors (such as a mental disease, a mental defect, or mental incompetence); or incompetent to stand trial for such an offense.
- o Also provides that an individual shall not be considered to be confined in a jail, prison, or other penal institution or correctional facility if he is residing outside the institution at no expense (other than the cost of monitoring) to the institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

These provisions are effective with respect to benefits for months beginning after 90 days after enactment.

ADDITIONAL DEBT COLLECTION PRACTICES

- o Authorizes SSA to use certain delinquent debt collection procedures available to other Federal agencies, but not to SSA, under the Debt Collection Act of 1982. The procedures include reporting delinquent debtors to credit agencies, contracting with private debt collection agencies, and recovering debts by administrative offset of other Federal payments to which the debtor may be entitled. The procedures may be applied only if the overpayment was paid to a person after he or she attained age 18, the debt is not recoverable by other means provided by the Social Security Act, and the debtor is no longer a beneficiary.

The provision is effective with respect to collection activities begun on or after enactment and before October 1, 1999.

NURSING HOME NOTIFICATION

- o Requires nursing homes to notify SSA within 2 weeks after they admit SSI recipients (effective October 1, 1995).

LISTING OF REFERENCE MATERIALS

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Social Security and Subcommittee on Human Resources. Hearing on Proposals to Simplify and Streamline the Payment of Employment Taxes For Domestic Workers. March 4, 1993. 103rd Congress, 1st Session.

U.S. Congress. Senate. Committee on Finance. Hearing on Social Security Taxes for Domestic Workers. July 21, 1993. 103rd Congress, 1st Session.

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Social Security. Hearing on Proposal to Bar Social Security Benefit Payments to Criminally Insane Individuals Confined to Public Institutions by Court Order. September 21, 1993. 103rd Congress, 1st Session.

