103D CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
103–842

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 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.

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.

○