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EXECUTIVE COMMITTEE MEETING

THURSDAY, JUNE 11, 1992

U.S. Senate

Committee on Finance

Washington, D.C.

The meeting was convened, pursuant to notice, at 9:05 a.m., in Room SD-215, Dirksen Senate Office Building, the Hon. Lloyd Bentsen (Chairman, Committee on Finance) presiding.

Also present: Senators Moynihan, Baucus, Boren, Mitchell, Pryor, Riegle, Rockefeller, Daschle, Breaux, Packwood, Dole, Roth, Danforth, Chafee, Durenberger, Symms, Grassley and Hatch.

Also present: Vanda McMurtry, Staff Director and Chief Counsel; Edmund Mihalski, Chief of Staff, Minority.

Also present: Debbie Lamb, Trade Counsel Majority; Eric Biel, Trade Counsel Minority; Bob Kyle, Chief Trade Counsel Majority; Rolf Lundberg, Trade Counsel Minority; John E. Hensley, Assistant Commissioner, U.S. Customs; Dr. Alen Cohen, Professional Staff Majority; Ron Davis, Professional Staff Majority; Margaret Malone, Professional Staff Majority; Hank Gutman, Chief of Staff, Joint Committee on Taxation; Sam Sessions, Chief Tax Counsel; Ms. Valerie Nixon, Professional Staff Minority; Mr. Fred Goldberg, Department of Treasury; and Gail Cozens, Associate, Committee for Legislative Affairs in Social Security.

(The prepared statement of Senator Symms appears in the

appendix.)

(The press release announcing the meeting follows:)

The Chairman. If you will please cease conversation and be seated we will have this markup underway. We are going to start with the Trade Agency authorizations. I would like the staff to walk us through the proposed authorizations for Customs, for the USTR and the International Trade Commission.

Would you proceed, please?

Ms. Lamb. Thank you, Mr. Chairman.

The staff briefed all of the Trade Legislative Assistants yesterday on the elements of your budget authorization proposals for each of the three trade agencies and with your permission this morning we will summarize the elements of your proposals.

In summary, the Chairman's mark provides a two-year authorization for the ITC, the Customs Service and the Office of the U.S. Trade Representative. For the Customs Service the FY-1992 appropriation for salaries and expenses was $1.27 billion. The administration's request for FY-1993 for salaries and expenses again was $1.32 billion and the Chairman's mark would provide an authorization of $1.34 billion with the increase accounted for chiefly by an authorization of $8 million for funds for inspector positions to be placed at ports of entry throughout the United States.

For FY-1994 the Chairman's mark would authorize $1.39 billion for salaries and expenses. For the Air and Marine Intradiction Program, the administration's FY-1993 request was

for $139 million. This represents a decrease or a cut of $37 million over the FY-1992 appropriated level. But that cut is attributed to nonrecurring expenses that were provided for in the FY-1992 appropriation for one-time purchases of helicopters, support aircraft and other support equipment; and the administration does not anticipate purchases in FY-1993 similar to the ones that occurred in FY-1992.

The Chairman's proposal would therefore fund that account at $139 million or at the requested level with the FY-1994 authorization of $144 million.

For the Customs Forfeiture Fund the FY-1992 appropriated level was $15 million. The administration requested that same level for FY-1993. The Chairman's mark would agree with that requested level and build in a slight increase to $15,600,000 for FY-1994. The final elements on the Customs authorization would be a request for several studies that had been requested on specific Customs issues by several members of the Committee.

The Chairman. Thank you.

Senator Moynihan. Mr. Chairman, may I make just one note, sir?

The Chairman. Yes. Senator Moynihan.

Senator Moynihan. We're sending $138 million next year on the Air Intradiction Program. Is that it?

Ms. Lamb. That is the proposal, yes.

Senator Moynihan. How many airplanes are we going to intradict?

Ms. Lamb. Perhaps I should turn to our colleagues from the Customs Service..

Senator Moynihan. Well, we have a table here. It estimates 20.

Ms. Lamb. The Customs officials are here this morning so we will ask them.

The Chairman. Would Customs make a comment concerning the commentary of the Senator from New York?

Mr. Hensley. Mr. Senator, I am John Hensley, the Assistant Commissioner of Customs for Enforcement.

Senator Moynihan. Sir.

Mr. Hensley. The Customs figure I believe you are looking at is a percentage number as opposed to the number of aircraft actually intradicted. The intradiction of aircraft goes from South America, Central America, Mexico to the Caribbean and into the United States. The number of intradictions themselves vary from port to port. But the actual way we carry those is in terms of inside and outside the United States.

What you are looking at is domestic only figures. The majority of our aircraft hours and intradictions are the extended border south. So they are not carried under domestic intradictions. We actually intradict targets of interest run

in South America alone over 200 per month as detected by the P-3AEW aircraft.

Senator Moynihan. Sir, you said that 20 was a percentage? No, sir; it would not appear to be.

Mr. Hensley. Excuse me just a second.

The 20, Senator, is the number of actual apprehensions in the domestic --

Senator Moynihan. So it is not a percentage?

Mr. Hensley. No, I was looking at the wrong sheet. I am sorry.

Senator Moynihan. Sure.

Mr. Hensley. Those are the number apprehended in the domestic U.S. They do not represent the total number of apprehensions, however. As I said, we do not record on this worksheet the number of apprehensions occurring outside the U.S. because we turn those over to foreign governments.

Senator Moynihan. Thank you very much, sir.

Mr. Biel. Mr. Chairman, with respect to the Office of the U.S. Trade Representative USTR has requested just under $21.7 million for FY-1993. This represents an increase of approximately $1.3 million over the FY-1992 appropriation level.

For FY-1994 USTR's request is $22,435,000, an increase of $738,000 over the FY-1993 request level. The Chairman's mark provides the full funding levels requested by USTR for both

FY-1993 and FY-1994.

With respect to the U.S. International Trade Commission, for FY-1993 the ITC has requested just over $45.1 million. This is an increase of about $2.7 million over the FY-1992 appropriation level.

For FY-1994 the ITC request is nearly $49.7 million. This is approximately $4.5 million more than the FY-1993 request level.

The Chairman's mark provides the full funding level requested by the ITC for FY-1993. The Chairman's mark, however, reduces the ITC's FY-1994 request by slightly more than $1.6 million to just over $48 million. This amount would be $2.9 million above the FY-1993 request level.

Over $1.5 million of that reduction involves the ITC's request to include what is known as a locality pay adjustment. This pay adjustment is part of a program passed by Congress in 1990 intended to bring Federal government pay more into line with private sector pay based on differences and different localities across the country.

That program has taken affect in three cities, but its application to the Washington, D.C. area where all ITC officials are based still remains uncertain. In view of that, including it in the ITC's FY-1994 budget was not seen as warranted.

Mr. Chairman, that concludes our presentation on the

budget request authorization levels for the three Trade agencies.

The Chairman. Are there further comments from staff?

(No response.)

The Chairman. Are there questions concerning it?

(No response.)

The Chairman. Let me state that these are important agencies and one of the reasons I have recommended the two-year authorization -- we put it in last time as you recall, the two-year authorization -- that was to try to give them a longer term planning authorization.

The other point I wanted to get across to OMB was to quit trying to cut Customs. With the increased responsibilities and duties of Customs, by the increase in trade that we are seeing, by what we are seeing in trying to have the intradiction of drugs coming in, I think it is imperative that we do that.

Now let me also state though that when we are talking about a two-year horizon there, if we find because of NAFTA or other reasons that those duties are increased substantially, then I will be back to you talking about possible revisions in that authorization. But for the present time as to what we can foretell about the future, I believe these are going to be adequate.

Are there further questions concerning it?

(No response.)

The Chairman. May we have a motion then?

Senator Moynihan. I move that we adopt the budget as proposed in the Chairman's mark.

The Chairman. Is there a second?

Senator Hatch. I second it.

The Chairman. Questions?

(No response.)

The Chairman. All in favor of the motion stated --

Senator Moynihan. What do you say, a little enthusiasm?

The Chairman. -- make it known by saying aye.

(A chorus of ayes.)

The Chairman. Opposed?

(No response.)

The Chairman. The motion appears to be carried unanimously.

Next on the agenda we have two requests for Section 332 studies by the International Trade Commission. The first is a follow-up on a study on advanced technology manufacturing industries that Senator Danforth requested in 1990.

The ITC proposed to continue this study by looking at the global competitiveness of three more industries -- computers, aircraft, and cellular communications.

Senator Danforth, since you are the prime mover of this originally, would you care to comment?

Senator Danforth. Mr. Chairman, I have long felt that the International Trade Commission is more than a quasi judicial body. It also is really a magnificent resource for Congress and for the government. It does have the capability of making first-rate studies and as the international marketplace gets more and more competitive the ability of our government to focus on the problems we are having in that marketplace, particularly with very competitive products, becomes, I think, more and more acute.

That is the purpose of this study. It really is a carry-on of a function that the ITC has performed ever since 1990.

Senator Moynihan. Mr. Chairman, if I could just very much agree with what Senator Danforth has said.

The ITC is indeed a resource of that kind. I am glad to see us use it.

The Chairman. Are there further comments on that particular study?

(No response.)

The Chairman. If not, we have had a second study that has been requested by Senator Baucus. That is to look at the conditions in the U.S. and the Canadian cattle and beef sectors in light of the subsidies that Canada is paying to cattle producers.

I, too, have noticed the subsidized cattle sales by the Canadians and I think they are beginning to have an impact

here. I think the study is a good idea.

But I defer to Senator Baucus for any comments he might have.

Senator Baucus. Thank you, Mr. Chairman. It looks like it is very similar to the Canadian system to subsidize hogs which the United States Government countervailed against not too long ago. Essentially, Canadians do have under their tripartite stabilization system a subsidiary program, it appears, to subsidize the production of cattle, obviously a trade barrier that's unfair competition, again very similar to the Canadian system to subsidize hog production which we countervailed against.

We are now looking for data to find out exactly what is going on to see what steps, if any, we should take once the Section 332 study is complete.

But I think the Chairman for including it in the mark.

The Chairman. Are there further questions or comments concerning this study?

(No response.)

The Chairman. If not, may I have a motion on the study.

Senator Packwood. So moved.

The Chairman. The motion is made. Is there a second.

(The motion was seconded.)

The Chairman. All in favor of the motion stated make it known by saying aye.

(A chorus of ayes.)

The Chairman. Opposed?

(No response.)

The Chairman. The motion carried.

I would now like to call for -- Well, we will have a 15 minute recess and we will return here at 9:35.

(Whereupon, the meeting recessed and resumed at 9:35 a.m.)

The Chairman. If you would please cease conversation and take your seats we will get underway.

We will be dealing next with the extension of the unemployment benefits. I think it is important that this bill be enacted quickly. Because what we are saying is part of these benefits will be expiring on June 14 and by July 4 all of them will expire. That means that if you have a long-term unemployed worker who has exhausted his State benefits after July 4 you will not be eligible for any benefits at all.

Now the proposal before the Committee has an extension of the benefits as we passed them before. That is 33 weeks of benefits for those workers in those States with the highest unemployment; and 26 weeks in all the others.

What you've also seen is since we last did that you have seen an increase in unemployment. It has gone from 7.1 to 7.5. We put in another deal though to try and anticipate what might happen. If you see unemployment declining, dropping the number of weeks will be reduced. This emergency program would

expire on March 6 of next year.

The reason we chose that date is because it gives us time after we get back in the new session to address the problem. Now beginning next March what we put in is a new optional trigger for the permanent extended benefits. States would be able to use a 6.5 percent TUR in addition to the current IUR triggers.

I believe that that will give States some additional flexibility that will be helpful. I think if we do not do that we are going to be faced with passing another unemployment bill early next year. I am told that the Department of Labor actuaries are anticipating that in the first quarter of next year that unemployment will be 6.6 percent.

Under the current law only one State would trigger for benefits on that and I think that is unacceptable; and we ought to be able to correct that. That is what I have recommended in this mark.

Now with that I would like staff to proceed. Ms. Malone, are you handling that?

Ms. Malone. Yes, Senator.

The Chairman. Explain what we have done in this.

Senator Mitchell. Mr. Chairman, may I interrupt one moment before Ms. Malone starts.

The Chairman. Oh, yes, of course.

Senator Mitchell. I am going to have to leave in a few minutes to open the Senate. I wanted to inquire, Mr. Chairman, whether my understanding is correct that the provision regarding the extension of Veterans Administration authority to verify income level eligibility for VA pensions through the IRS and Social Security's data is no longer included in the package that you are presenting?

The Chairman. That is correct. It is not any longer included in the package.

Senator Mitchell. That is my understanding, Mr. Chairman, and I thank you for that.

The Chairman. Surely.

Ms. Malone. Mr. Chairman, I will review the benefits portion of the unemployment compensation package and then tax staff will go through the revenue measures.

The Chairman. All right.

Ms. Malone. As you indicated what is before you and described in a document called Unemployment Compensation Markup Document which you have in front of you, the proposal continues the current 33 and 26 weeks of benefits until March 6. As you can see from your document there are now 18 States that are qualifying for 33 weeks of benefits.

This will be continued until the unemployment rate drops below 7 percent for two consecutive months; and at this point CBO is estimating that that will occur in November. If the

unemployment rate drops below 6.8 percent for two consecutive months, then the number of weeks will drop again. The number of weeks when it is below 7 percent is 15 and 10; and the number of weeks when it drops below 6.8 percent would be 13 and 7.

This program expires on March 6, but then beginning on the 1st of March we would have a new optional extended benefits trigger that would come into play. That trigger which would be available to the States in addition to the current IUR triggers that they have would be 6.5 percent, which is one percentage point above what CBO estimates as full employment. The 6.5 percent has to be matched by a rate that is at least 110 percent of the State's average to IUR for the corresponding three-month period in either of the two preceding years.

Those are the two major provisions of the bill. Other provisions include an extension of benefits for railroad workers. You will remember that in previous legislation you have extended benefits for those railroad workers who are now under the current law not eligible for extended benefits because of a flaw in the law. This would extend benefits for them throughout the period until March 6. This provision is being included at the request of the Labor and Human Resources Committee. It is not in our jurisdiction.

In addition, there is a provision to modify the work

search rules for areas of high unemployment. That is described on page 4 of your document. Federal rules enacted in 1980 require systematic and sustained work search by individuals who are receiving EB benefits. This same rule now applies to the EUC, the Emergency Benefits Program.

Under this proposal the Governor of the State would be allowed to weigh these Federal work search rules and apply State rules instead in areas of exceptionally high unemployment. The Secretary of Labor would issue guidelines to determine or to guide the States on when that determination can be made.

Also on page 4 under (C), Modify EUC and EB Eligibility Criteria, under current law there is a current law that states ''meet basic earnings criteria in order to qualify for extended benefits.'' This was legislation enacted in 1981. There are three equivalent measures essentially.

Now under the law States can use only one of those measures. This proposal would allow them to use all three of the measures. This is a proposal that has been introduced by Senators Seymour and Cranston. It affects some 22 or 23 States.

In addition, on page 5, Continued Eligibility for EUC, this is a provision that is designed to correct a problem that under current law is occurring when individuals who are eligible for EUC benefits go back to work on a temporary basis

or on a part-time basis. They earned enough to requalify for State benefits but that means that they lose their eligibility for the emergency benefits. And because the emergency benefits are ordinarily based on a sustained work history and are therefore more generous than the regular State benefits, people who, as we say, have tried to do the right thing are being penalized. This would affect individuals in nearly all the States.

Under (E), Clarify the States May Operate Short Time Compensation Programs, legislation in 1982 specifically authorized States to operate these programs under which they are allowed to pay pro-rata benefits to individuals who are working less than full time because their employer has a plan that provides for a reduction in work hours for employees rather than making temporary layoffs. This provision would simply clarify that States in the future will be able to operate those programs and about 14 States now do.

There are two other provisions described on page 6 which relate to information and one of them would allow States without cost to provide information about the earned income tax credit to beneficiaries. The other one would require States to inform individuals that all their unemployment benefits are subject to income tax under the Federal statute so that individuals who are receiving benefits will not be taken by surprise in April when they have to file their income

tax returns.

You have in front of you a cost sheet which describes the costs of this proposal. It is $970 million in 1972 and $5.4 billion over five years. You also have in front of you two charts, which you may consult, which will show you in chart one the number of States that are qualifying for EB or could qualify for EB under current law in terms of this last recession, over the period of the last recession.

You can see, for example, that under the current law only eight States, plus Puerto Rico, were eligible for extended benefits at any one time.

In chart two you will see a comparison of the Senate extended benefits trigger with the House extended benefits trigger. This is an analysis done by the Congressional Research Service. They say that over the period of the last recession had the new EB trigger been in effect a total of 30 States would have triggered on it at any one time. For most of the period the maximum would have been 25 or 26 States.

Now perhaps the tax staff would like to walk through the revenue measures.

The Chairman. Mr. Gutman, if you would speak to the revenue measures.

Mr. Gutman. I will. Thank you, Mr. Chairman.

Mr. Chairman, you and the members of the Committee have before you JCX 21-92 and Revenue Table 92-2140. The former

describes the substance of the tax provisions that are proposed to be used to pay for the bill and the latter is a year-by-year and aggregate table of the revenue consequences.

There are five provisions that are proposed to be used to pay for the bill. All of these were included in some form in H.R. 4210. Two of the provisions -- the Partnership Taxable Year provision and the Tax Treatment and FSLIC Assistance -- are precisely the same as the provisions that were in H.R. 4210. The securities mark to market provision is the same except that four specialists have been excluded from the statutes and the securities mark to market provision was included in the administration's budget in substance.

The rollover and pension provisions are the same except for the addition of a withholding requirement and the final revenue source is an increase in the amount corporations must pay to avoid estimated tax penalties, a version of which was also included in the H.R. 4210 measure.

We just very briefly, Mr. Chairman, go to the mark up 21-92 and I can point out very quickly the substance of the provisions for you.

The first provision is a change in the taxable year election for partnerships, S corporations and personal service corporations. Under current law these entities are permitted to elect under certain circumstances a taxable year other than a calendar year but the deferral of tax arising from that

election can not exceed three months.

Under the proposal these entities could elect any taxable year so long as certain technical requirements were met and a payment of a deferral charge essentially equivalent to the tax benefit of having a fiscal year, other than a calendar year, is made to the Federal Treasury. The technical aspects of it are described on page 2 of the mark up document.

The second provision involves an extension of the rollover privilege with respect to pension distributions and also a commensurate imposition of a 20 percent withholding tax on lump sum distributions, nonperiodic distributions from pension plans that are not reinvested in or not rolled over tax-free into an IRA or other qualified plan.

Now under the proposal there would be an expanded availability of rollover opportunity for individuals who have received distributions from qualified plans. In addition the provision would permit individuals to direct a distributor plan to transfer directly to a qualified recipient the funds that would otherwise have come out to the individual and then have to be rolled over by the individual.

So that mechanically what can be accomplished is an individual's desires to do a rollover of a lump sum distribution can simply direct the distributor plan to deposit those amounts in the retirement plan to which they are to be rolled over.

Senator Packwood. Can I ask you a question on that?

Mr. Gutman. Yes, Senator.

Senator Packwood. Having gone through the battle of withholding on dividends and interest and remembering how firm this Committee was on it and then we simply got rolled is what happened, reversed, I want to make sure I understand this.

Current law is somebody retires, worked 30 years, is entitled to $100,000 lump sum, thinks about it for a while, decides to put it into an IRA. He can roll that over now and he pays no tax on it at the moment.

Mr. Gutman. That is correct.

Senator Packwood. Under this -- I am going to support this bill. I understand AARP already opposes this particular method of distribution. Now, the $100,000, he makes the same decision under this bill, he will only get $80,000 rolled over and he will pay a tax immediately on the $20,000. Is that correct?

Mr. Gutman. That is not entirely correct, Senator.

If the individual has considered his options and decides he wants to roll it over --

Senator Packwood. Yes.

Mr. Gutman. -- he can simply direct the distributor plan to transfer the amounts into what would be the recipient plan. In that event there would be no withholding imposed.

Senator Packwood. Right.

But he does not have the 60 days to think it over that he has now.

Mr. Gutman. That is correct.

Senator Baucus. How much time does he have?

Mr. Gutman. Well, he would have to make that election to roll over prior to the distribution to him. If the funds are actually distributed to him, then he would be receiving a net amount of 80 percent of the distribution.

Senator Packwood. And paying taxes immediately on the 20 percent.

Mr. Gutman. Well, the tax would be withheld on the 20 percent. That is correct.

Senator Packwood. Yes.

The Chairman. On the other hand, as he reached retirement, he would be giving long thought or he should as to what he wants to do as far as the rollover. He has all that time to consider which choice he makes before he actually does the retirement and gets the funds.

Mr. Gutman. That is correct, Senator. Indeed, one of the justifications for the provisions as a matter of retirement policy to attempt to keep all of these funds in qualified plan solution so there is not slippage between the distribution and the rollover.

The Chairman. The other part of the problem is that sometimes these fellows do not stop to think they have a tax

that is going to be occurring. They go out and buy their bass boat or whatever they do with their money; and they have expended their money before they live out their retirement. And in turn find all of a sudden they have a tax to pay.

Senator Grassley. Mr. Chairman?

The Chairman. Yes.

Senator Grassley. Now we are going to get $2 billion out of this. As a practical matter, isn't what we are anticipating here is that a lot of these people are going to be confused, they are going to forget or this is going to be forgotten and we are not going -- they are not going to be applying to get it back and that is where we are going to get our net revenue.

The Chairman. No. No. No. No. No.

Mr. Gutman. I am not sure that that is exactly accurate, Senator. I think that what is really --

Senator Grassley. Tell me how you expect to get $2 billion that you would not otherwise be getting.

Mr. Gutman. You would be accelerating the money from next year, basically, into this year through the application of the withholding.

Senator Grassley. So ten years from now is the Federal Government going to be any better off in the total amount of money that these same individuals would be paying?

Mr. Session. No, Senator. It is an acceleration of tax

as a result of withholding and the year rather than getting the same tax in the following year when they would file their tax return. But it occurs each year. It is a permanent acceleration of the tax.

Senator Grassley. We are really just taking money out of one pocket and putting it in the other.

Mr. Gutman. Well, you are receiving money earlier than you otherwise would have.

Senator Durenberger. It is an accounting gimmick then.

Mr. Session. It moves revenues forward. That reduces the government's borrowing cost for the year into which the revenues are moved. The same acceleration would occur in the next year. So there would be no increase in the borrowing needs of the government in the following year.

The Chairman. Another part of what you are talking about is a compliance measure that you are doing.

All right, if you would proceed.

Mr. Gutman. Certainly.

The third provision which is described at pages 5 and 6 of the proposal -- I am sorry, page 5 of the mark up document -- is an increase in the amount of estimated tax that must be paid by corporations in order to qualify for the safe harbor from estimated tax penalties.

This provision would increase the amount from 95 percent of estimated tax, a current year liability, to 96 percent.

That provision would be effective for taxable years that begin after June 30, 1992 and for taxable years that begin after December 31, 1996. That 96 percent rate would drop to 91 percent.

A fourth provision --

Senator Chafee. Mr. Chairman?

The Chairman. Yes, Senator Chafee.

Senator Chafee. Mr. Chairman, I would like to ask Mr. Gutman what the effect of all this is. Why don't we make it 97 percent? In other words, there must be some problems associated with this. When you finish I would like to hear Mr. Goldberg briefly discuss this.

Mr. Gutman. The effect of the provision, Senator, is to again accelerate some tax payments into this year.

Senator Chafee. I appreciate that. But the problem must be in the estimation by the taxpayer.

Mr. Gutman. That is correct.

As you begin to approach 100 percent, obviously, of this year's tax liability the difficulties of precise estimation become fairly significant. At 96 percent the perception is that it would be valuable to corporations in terms of avoiding penalties.

Mr. Session. If I might add to that, the Committee in the last six months or so has increased the estimated tax requirement from 90 percent to 95 percent. That happened on

effectively two occasions, last year and earlier this year. To date at least the staff has received no or little adverse comment on that change which is a five percentage point increase.

So that is the reason why there is this perception that Mr. Gutman alluded to, an additional one percentage point should be acceptable also.

Senator Chafee. Well, it seems to me that if this is such a bonanza, why don't we make it 98 percent.

Mr. Gutman. I think the question there, Senator, is a judgment with respect to when the value of the safe harbor disappears.

Senator Chafee. What does Mr. Goldberg have to say about that?

Mr. Goldberg. Senator, as Mr. Gutman pointed out, the closer you get to 100 percent the more difficult it is to achieve your estimates with complete accuracy. I would point out that the current rate, I believe, is 93 percent. It does not go up to 95 percent until later this year.

We do not have current data on the number of large corporations that are meeting this requirement or are subject to penalties. I will say that a number of large corporate taxpayers have expressed concern over their ability to estimate with precision. But beyond that we do not have any specific data as to the degree of difficulty we are imposing.

Senator Hatch. Mr. Chairman?

The Chairman. All right.

Senator Hatch. Mr. Chairman?

The Chairman. Yes.

Senator Hatch. Could I just ask one question.

Mr. Gutman, isn't this just a tax gimmick so you can meet the Budget Enforcement Act provision so that you have zero/zero?

Mr. Gutman. Well, it is within the rules.

Senator Hatch. It is within the rules. I am not necessarily finding fault. But that is what you are doing, isn't it?

Mr. Gutman. We are accelerating money from next year into this year.

Senator Hatch. So you can pass the bill without having a point of order.

The Chairman. Well, of course what I think you have to understand is we are paying for a temporary program, too.

Mr. Session. That is correct. It is essentially the same question that Senator Symms was raising and the response is the same -- that it is a temporary program. It reduces the government's borrowing cost for the year into which the revenues are brought and as revenues do not decrease in the subsequent years.

Senator Chafee. Is this a temporary provision?

Mr. Gutman. This is a temporary provision, Senator.

Senator Chafee. It reverts to whatever it is --

Mr. Gutman. It goes to 91 percent and for taxable years beginning after 12-31-96.

Mr. Session. Let me comment.

Senator Chafee. So at that time there will be a cost, if you would, for that year? In other words a reduction in revenue from what it was the prior year if you do not collect it.

The Chairman. But I would also hope that you would have a benefit that would have expired and you would not have that expense.

Mr. Session. Let me comment. It depends on how you look at it. If you look at this as a one percentage point increase over the currently scheduled requirements -- 93 percent as Mr. Goldberg pointed out for the remainder of this; it is actually three percentage points for that period, and from 95 to 96 for the following years and then back down to 91 percent as this provision does -- it is a permanent one percentage point change.

So from that standpoint it is permanent and, therefore, the revenue effect to which your question was directed does not occur. It is a permanent one percentage point increase.

Senator Pryor. Mr. Chairman, a question.

The Chairman. Yes, Senator Pryor.

Senator Pryor. What is the present rule on the amount of the penalty when the taxpayer has underestimated their income? What is the penalty? And also, is there interest involved? What is the rule?

Mr. Gutman. The penalty is an interest charge, Senator Pryor, but that interest charge is nondeductible.

Senator Pryor. So there is no actual penalty, it is just interest?

Mr. Gutman. That is right. Well, it is a penalty that is measured by a nondeductible interest charge.

Senator Pryor. We are not changing any of those rules with this provision?

Mr. Gutman. No, we are not. That is right.

Senator Pryor. Thank you, Mr. Chairman.

Senator Chafee. Mr. Chairman, one other quick question.

The Chairman. Yes, Senator Chafee.

Senator Chafee. And the nondeductible interest assessment of penalty, if you would, applies to the difference between what was paid and what wasn't paid?

Mr. Gutman. That is correct.

Senator Chafee. And a large corporation is a corporation that has in the prior year over $1 million or more of taxable income?

Mr. Session. In one of the three prior years.

Senator Chafee. In one of the three prior years.

Thank you.

The Chairman. All right.

Senator Dole. Mr. Chairman, did Treasury comment on this?

The Chairman. That is fine. They did comment. But if you would like further comments, that is fine. But he did comment.

Senator Dole. I mean, is this a practical change?

Mr. Gutman. I think it is a change that the corporate sector is already struggling with; and I think increasing it by 1 percent makes that effort that much more difficult. I would point out that because the penalty is nondeductible I am not quite sure that it is fair to call it an interest charge. It is a charge in excess of the effective rate of interest.

But I think, Senator, that going from 95 to 96 makes it that much harder for those corporate taxpayers and you cannot dance around that point. Now they are already required to estimate their income, having been required to estimate their income, taking 95 percent of the tax liability or 96 percent of the tax liability my assumption is the judgment is that that is not a material increase in the difficulty.

My personal view is that there is a more fundamental structural problem with those rules. In longer term you ought to simplify all of them. In the short run I think Mr. Gutman's answer that it is an incremental increase and the corporate sector has been living with that and will have to

live with it in the future.

Senator Chafee. I assume there is no protection for them if they have met what they paid the prior year or something to that effect, that is of no consequence?

Mr. Gutman. Only for small corporations.

Senator Chafee. But for this group we are talking about that would not apply. If they paid it, 100 or 120 percent of what they paid the prior year it would not make any difference.

Mr. Gutman. That is correct, Senator.

The Chairman. All right.

Mr. Gutman. The next proposal is the proposal involving the mark to market requirement for securities dealers. This provision was in H.R. 4210. This provision was also in the administration's budget. Basically it would require securities dealers to mark to market their inventory and certain other securities that are not inventory in their hands at the end of the taxable year rather than having them calculate their taxable income on the basis of one of three methods that are currently available to them.

The provision, as I say, was in H.R. 4210 in precisely the same form it is proposed with one exception. That exception is that floor specialists would not be subject to the rules. This provision is effective with respect to taxable years ending after December 31, 1992 and to the extent that there

would be any affect currently, any estimated tax penalties that might have otherwise accrued will be waived with respect to estimated tax due before the date of enactment.

The final provision is a provision that has also been in the administration's budget, was also included in precisely this form in H.R. 4210, and it is the provision that would basically deny a double deduction with respect to FSLIC assistance, certain FSLIC assistance, that was granted in connection with the savings and loans thrift crisis.

The Chairman. I would like Mr. Goldberg, if he has any comment, on the three that the administration had previously proposed, if he has any comments on those -- the FSLIC double dip of the mark to market or the pass through on partnerships to S corporations.

Mr. Goldberg. Mr. Chairman, we continue to believe those are appropriate provisions in the context of an otherwise appropriate bill.

The Chairman. Thank you.

(Laughter)

Senator Roth. Mr. Chairman?

The Chairman. Yes, Senator Roth.

Senator Roth. Could I ask why OMB scores it and CBO does not? Why does that make sense?

Mr. Goldberg. Senator, I do not pretend to be an expert on the budget agreement. My understanding is that the

Congressional Budget Office position essentially is that since this relates to an entitlement program and it is an adjustment in that program, it is implicit in the base line that the position of the administration is that we read the law differently and we believe that relative to the existing state of affairs this money is properly scored.

We also believe this is a provision that is reflecting what we think existing law is and is a codification of what we think existing law is and support its enactment on that basis.

The Chairman. Senator Roth, let me call on the Committee's resident expert on that subject. Dr. Cohen, would you comment?

Dr. Cohen. Thank you very much, Mr. Chairman.

The reason the issue is with respect to the FSLIC provision the Budget Enforcement Act says that if a provision maintains the commitment for full funding for deposit insurance guarantees that existed at the time that the Budget Enforcement Act was enacted in 1990, if it just continues that commitment, then that is not considered to be a change in terms of budget scoring.

If it is a departure from that commitment, then it is considered to be a change. CBO and OMB have different views on that point. OMB believes that this is a change which would change the commitment and, therefore, should be scored. CBO believes that this is not a change in the commitment and,

therefore, should not be scored. So it is a difference in interpretation of that section of the Budget Enforcement Act.

The Chairman. Further comments?

Yes, Senator Grassley.

Senator Grassley. If you are done, a question I want to ask.

The Chairman. Yes, of course. Go ahead.

Senator Grassley. Mr. Gutman, when you discussed this 1 percent corporate increase as being permanent and the other increase as sunsetting, could you give us a summary of the extent to which that is true of each of these increases, the extent to which they are permanent changes in law as opposed to those that are going to be sunsetting at the end of the five-year period?

Mr. Gutman. Yes. Senator Grassley, I believe, let us see, the taxable year of partnerships is permanent. The pension provision is permanent. The increase in the corporate estimated tax is permanent to the extent of 1 percent. The mark to market for securities dealers is permanent and the FSLIC provision is also permanent.

Senator Grassley. Mr. Chairman, permit me to make a philosophical comment and then also to follow it up with a question from the way that budget law works, and tax law works, and the revenue neutrality. A question to you afterwards.

First of all, it seems to me that we are raising money over a five-year period of time to pay for a program that is going to for the most part run out in a short period of time. That is probably questionable whether or not that is good policy. But my point is, it seems to me that we are raising taxes for a specific program.

It would seem to me that we ought to sunset the tax increases so that that revenue is not lost in the big black hole of the Federal Treasury to be mixed up with all other revenue that has historically been coming in over the last decades and some of it over the last few years, the tax increases.

But as a practical matter, and my question to you, it seems to me that it is always very difficult in this Committee to raise revenue to finance programs. It would seem to me like you would want to sunset these tax increases so that down the road two years, or maybe as much as five years -- I am sure most everybody who is here today still hopes to be here five years from now -- that you are going to want sources of revenue to finance programs that we will need in the future. You can almost predict it. But we do not know what they are today.

So why lose this revenue in this big black hole of the Treasury? Why not sunset it and reserve it? Now I am asking you --

The Chairman. I would be delighted to respond.

Senator Grassley. -- because you have the responsibility of coming up with a lot of this revenue.

The Chairman. Let me answer your question because I think it is an excellent question. The problem that you are running into is that each time we come up with this emergency unemployment extension we are trying to change that, so what we have done is put in a trigger so we do not have to come up next January or March with another emergency one. So we are trying to put that in on a permanent basis. That is the change in the TUR, the 6.5 percent, that is in this piece of legislation.

So that takes care and that forecasts to an extent what happens if you have further unemployment problems. That is in there. We have this revenue in a good part of it on a permanent basis therefor. So we are not passing emergency and then emergency revenue, the two coupled together.

Senator Grassley. I think that that has probably answered my question. Could I ask then the extent to which you can predict the cost of permanent change in the unemployment compensation law as opposed to just the temporary expenditures, the extent to which that revenue is going to be used totally for that purpose or that we may be raising more revenue or less revenue than what this permanent change in the law would require.

The Chairman. Senator, I do not know anybody who can do that and tell you with great assurance and certainty that the economy is going to be at this level, and that unemployment is going to be at that level. It gets to be a bit subjective in that regard.

Senator Grassley. All right. I can appreciate that.

The Chairman. Yes.

Senator Grassley. Well, if you agree that you cannot -- I do not want to make your job too easy. But if you agree that you cannot give any sort of rationale for the tax increase for the immediate unemployment problems versus what might be needed for the long term and a justification for the permanency of the law, I would accept that that you cannot do it. But if you can do it, I would like to have some sort of a rationale.

The Chairman. Well, let me give you to what we can get insofar as CBO estimates. But they cannot get out there too far, Senator.

Senator Grassley. Well, I would be satisfied even for the five years.

The Chairman. All right.

Senator Grassley. Just for the five years.

Ms. Malone. The changes in the Permanent Extended Benefits Program over the five-year period amount to about $1.5 billion.

Senator Dole. What about the taxes, how much are the taxes?

Mr. Gutman. The entire amount of taxes in the package, Senator?

Senator Dole. For five years.

Mr. Gutman. The amount of tax revenue raising provisions are $5.473 billion.

Senator Grassley. Then my point to the Chairman would be, if you had situations -- this is worse than usual because we are in a recession -- the difference between that $1.5 billion and that $5.4 billion it seems to me that is an extra amount of money you are going to need then beyond 1997, that is going to come in as extra money, and again like I say ought to be reserved for future needs of this Committee, for programs that are unforeseen today that we are going to have to raise revenue for.

Otherwise, we are raising revenue here for a specific purpose. It is going to be mixed up with all the other revenue in the Federal Treasury and be spent on other programs.

The Chairman. Well, that can be answered. Go ahead.

Mr. Session. The remainder of the revenue in the package is dedicated to the temporary provisions, whatever the difference is, $3.6 or $3.8 billion. It is dedicated to the temporary provisions in the package.

Senator Grassley. And what you are saying supports what I have said in the sense that that X amount of dollars is going to be made permanent law but we do not have a temporary program that it needs to finance beyond the year 19- --

The Chairman. Well, I think what is being missed and what the staff has not pointed out is that some of this is speed ups to take care of the temporary situation at the present time. Speed ups.

Mr. Session. That is correct, Mr. Chairman. It is the other side of the discussion that took place earlier, which is the question whether it is appropriate to use speed ups and your response that for this purpose, for temporary programs, speed ups are in fact well suited to pay for the programs.

So it is not a permanent increase of $3.6 billion every five years.

Senator Grassley. I will drop it, Mr. Chairman. I just want to raise --

The Chairman. I think they were good questions.

Senator Grassley. All right.

The Chairman. Are there further questions or comments?

Senator Moynihan. Mr. Chairman, if there are none we are under a time constraint and we have two other items on the agenda.

The Chairman. Yes.

Senator Moynihan. I would like to move the adoption of

the measure.

The Chairman. All right. Is there a second?

(A second to the motion was made.)

Senator Chafee. Mr. Chairman?

The Chairman. Yes.

Senator Chafee. Before we move out this piece of legislation I am worried about what we are going to do about the luxury taxes.

The Chairman. We will be getting to that, Senator.

Senator Chafee. Well, I know.

The Chairman. Senator, in all candor, we have a number of things yet to take care of in this Committee. We have the extenders. I want to deal with the luxury tax and I want to deal with the energy bill. And I want to get all of that finished and we are operating under some time constraints here to try to get all of that finished. I have assured you that I am going to support a repeal of the luxury tax on boats and planes.

Senator Moynihan. And we are going to roll back Social Security.

Senator Chafee. Yes. I know you have been steadfast in your support for the repeal of the luxury tax and I appreciate that. What concerns me is the vehicle we are going to have.

The Chairman. You will have it.

Senator Chafee. When? When will the vehicle --

The Chairman. I would anticipate that we will have it completed by Tuesday of next week.

Senator Chafee. I am not worried about this Committee being prepared. I am worried about a vehicle.

The Chairman. Well, whether we do it today or we do it Tuesday insofar as when it goes on the floor of the Senate, I cannot tell you and it does not make that much difference, the two days.

Senator Chafee. But this bill, as I understand it, what we are doing here is in connection with the House unemployment bill; am I correct.

The Chairman. That is correct. Which is a clean bill.

Senator Chafee. Which is a clean bill. But is there a tax vehicle from the House to which we can attach the luxury tax?

The Chairman. Well, if we don't -- We have that, yes. We have a vehicle.

Senator Chafee. If you say so, that is enough for me.

The Chairman. Yes.

Senator Dole. Mr. Chairman, if I could just make one point. Earlier there was a morning with the two leaders and Senator Packwood and Senator Bentsen. There is some chance -- I am not going to try to pin the Chairman down -- but we are hopefully going to be negotiating the next few days too to see if there is some way to put together a package where it

addresses the concerns of the Senator from Rhode Island, and others, the Senator from Louisiana on the luxury tax; others of us on enterprise zones; some on the extenders.

So I would say to the Senator from Rhode Island I think his concerns have been noted on both sides.

The Chairman. No question about that and I assured him repeatedly.

Senator Moynihan. Mr. Chairman, under the circumstance then, I believe I have moved that we adopt the measure and I heard a second to that.

The Chairman. There was a second.

All in favor of the motion as stated, make it known by saying aye.

(A chorus of ayes.)

The Chairman. Opposed.

(No response.)

The Chairman. Motion carried. Thank you.

Now the next point we have is a couple points on Social Security.

If you will cease conversation. Those who are not involved in these other two issues, if you would depart, please.

Let me say in this session of the Congress we have seen a number of proposals to ease the Social Security earnings test. We have seen those in connection with legislation, extending

the Older Americans Act.

The problem with these proposals as I have seen them thus far is that they are not paid for. Now as members of this Committee know I believe the Social Security earnings test is neither equitable nor designed to meet the real needs of retirees now and in the future. So I would like to ease the test.

But I am absolutely opposed to any Social Security proposal that increases the benefits without paying for the costs. I am committed to the principal that we must protect the integrity of the Social Security trust funds by paying for any improvements that we make.

That is why I am recommending to the Finance Committee today to report out a Social Security earnings test bill that is paid for by a proposal to halt an unintended decline in Social Security revenues.

In 1987 coverage of wages under the Social Security wage dropped below the 90 percent level that was intended by the Congress and it has been declining ever since. Now the bases index by the annual increase in the average wage, but the coverage is declining because the wages of the high earners, those wages have been growing much faster than that of middle income.

The Social Security Administration estimates that by the end of 1991 this has already caused the unintended loss of $25

billion worth of Social Security tax revenues from high wage earners. Unless it is stopped, we are going to see a loss of many billions more.

So what we have done here is developed a wage base stabilization proposal that will stop that decline, that will stabilize the base so that each year it covers between 88.1 and 88.2 percent of the wages. Now by stabilizing that wage base we can pay for the cost of easing the earnings test.

The earnings test exempt amount would be raised to $21,000 by 1997 to a considerably higher amount by the year 2001. The stabilization proposal would also allow us to provide additional benefits for elderly widows and widowers, allow disabled adult children to marry without losing benefits, and increase the exemption from Social Security and Medicaid coverage for election workers.

I also believe it would be highly desirable to make the Social Security Administration an independent agency as Senator Moynihan and others on this Committee have long proposed and advocated. That ought to improve the public confidence in Social Security and should help to get the administration of the disability program under control again.

With that I would defer to Ms. Malone for comments on the proposal.

Ms. Malone. Mr. Davis will describe the provisions.

Mr. Davis. Thank you, Mr. Chairman.

The Chairman. Mr. Davis. All right.

Mr. Davis. We have six provisions in all today in the mark up document before you. The first is the liberalization of the earnings test. As you know the exempt amount today is $10,200 and it is indexed to increase annually by the increase in average wages.

The proposal would institute legislated increases in the exempt amount in every year for the period 1993 through 2001. As a result the exempt amount would begin at $11,193, rise to $21,000 by 1997, and reach $51,000 by the year 2001. In addition, the current law tax rate on earnings over the exempt amount which is basically a 33.3 percent rate, would be changed to 25 percent for the first $5,000 of earnings above the exempt amount in the year 1998.

The proposal would not change the measure of substantial gainful activity for the blind. It would continue at the old law levels.

The second proposal is to allow disabled adult children to marry without losing benefits. These are children who became disabled before age twenty-two and are survivors or dependents of retired disabled or deceased workers. If they marry anyone other than a Social Security beneficiary today they lose all of their Social Security and Medicare benefits.

This proposal would prevent that from happening in the future. It would prospectively say that anyone who became

married after September 1, 1993 would not lose benefits and those who lost benefits due to marriage prior to that time could regain their benefits if they remained disabled.

Senator Moynihan. Mr. Davis, somewhere along the line can we ask that we think of a better term than ''adult children.'' I know some childish adults, but the other way around is difficult.

Mr. Davis. Senator Moynihan, there is a new term ''child disability beneficiaries'' which seems better and I will use that in the future.

Senator Moynihan. Thank you.

Mr. Davis. The third proposal is to lower the reductions for early retirement imposed on elderly widows and widowers. There are basically two sorts of reductions that apply to widows or widowers when they retire before sixty-five or their deceased spouses have retired before sixty-five.

We would ease those reductions at age eighty-five by changing the reduction for their own earlier retirement from 5.7 percent a year to 4 percent a year and to allow them to have a benefit equal to at least 90 percent of their deceased spouse's age sixty-five benefit.

To the extent that any of these widows would be caused to lose SSI coverage of this provision we would have a provision that would require Medicaid to be retained. So they would not lose their Medicaid as a result of a benefit increases here.

This proposal would be effective September 1993.

The fourth provision is a provision to increase the coverage exclusion for election workers. The 1990 reconciliation legislation required States to cover election workers and others under their programs unless the election workers earned less than $100 a year. That amount is no longer satisfactory.

The proposal would raise it to $1,000 a year beginning in 1993 and would also cover election workers in the last quarter of this year, with an exemption equal to $500.

The fifth proposal is the proposal which finances all of these and it is a proposal to stabilize the OSDA contribution and benefit base better known as the wage base. As you know the amount of earnings subject to Social Security taxes and creditable for benefits is limited by this base. Earnings below the base are taxed. Earnings above the base are not.

In 1935 at least 95 percent of the aggregate amount of wages in employment covered by Social Security were included under the base and were taxed. Over the years that percentage fell off and was not kept up. But in the 1977 amendments the Congress expressly acted to increase the amount of wages covered under the base to 90 percent by raising the base levels and expressly assumed that that would stay at at least the 90 percent level due to an indexing of the wage base by annual wage indexing.

That did not happen. It worked for a few years. But by 1987 the base had dropped to below 90 percent and by 1990, the last year we had data, it had dropped to 88.6 percent. Social Security estimates that between 1987 and 1991 this decline below 90 percent in the base cost the Social Security trust funds $25 billion in revenues.

This hemorrhaging will continue unless we do something to halt the decline, which is projected to continue at least through the year 2000 by both CBO and SSA.

We, therefore, are offering a proposal which would halt the decline if the annual wage indexing mechanism currently used does not do so. It would halt it at 88.2 percent of wages under CBO assumptions and at 88.1 percent of wages under SSA assumptions for years after CBO estimates. The table on page 5 shows the exact affect of what would happen to the base under current law and what would happen to the base under the proposal and the level of wages covered.

We would make a minor technical change in the way that the average wage index mechanism is also applied to make it less subject to fluctuations due to arithmetic rounding.

The separate and much higher hospital insurance base would continue to be indexed by the same factors as the OASDI base is indexed. This wage base stabilization program would keep the Social Security trust funds from losing more revenues and the revenues that it would produce, therefore, would be

sufficient to cover all the costs of these proposals.

The last provision is --

Senator Chafee. Could I just ask you a question on that, Mr. Davis?

Mr. Davis. Surely.

Senator Chafee. New revenue will be brought in under this proposal, but that revenue also would be spent due to the changes in the earnings limitation?

Mr. Davis. That is correct, Senator.

Senator Chafee. So I do not think it is accurate to give an impression, and maybe you were not, that we are increasing the Social Security fund. We are not. We are taking in and dispensing exactly what we are taking in I gather.

Mr. Davis. Senator, in the short term that is correct. Over the long term this proposal would increase, improve the actuarial balance in the fund by .05 percent of payroll. So over the long turn it actually helps the balance of the fund.

Senator Chafee. What do you call the long term?

Mr. Davis. The 75 year projection period that is used by Social Security.

Senator Moynihan. Could I make a quick point on that?

The Chairman. Yes, Senator Moynihan.

Senator Moynihan. Under our present arrangements the money you lose between age sixty-six and seventy if you pay taxes you are paid it back afterwards. It is a wash actually.

Senator Chafee. Now wait a minute. I do not think that is quite accurate. Are you suggesting that the money you will pick up by people working and paying Social Security on those earnings will make up for the added amount that is spent out or is paid out because of the increase in the exemption?

Senator Moynihan. I will take it up later. But the simple fact is that although there is a penalty for earnings between sixty-six and seventy, that penalty is paid back to you after you retire. We are now making an arrangement where we are meeting the loss by the increase in the wage base; and then that penalty will not have to be repaid. So in the long run there will be more money in the funds. That is surely clear to you.

Senator Chafee. That clears the air.

The Chairman. Would you proceed, Mr. Davis.

Mr. Davis. The last proposal is the Social Security independent agency proposal. This is very similar to a proposal Senator Moynihan advanced in S.33. It follows the recommendations of the Stotts panel which was convened in the mid-1980s by the Congress to study the issue and make a recommendation.

The Chairman. Let me stop it at this point and entertain a motion to report out the earnings test.

Senator Moynihan. Mr. Chairman, I would so move. I believe we are all in favor of that.

The Chairman. Is there a second?

(A second to the motion was made.)

The Chairman. All in favor of the motion stated make it known by saying aye.

(A chorus of ayes.)

The Chairman. Opposed, similar sign.

(No response.)

The Chairman. Motion carried.

Now we will get on. That is a separate bill. Now if we would proceed on the Social Security independent agency.

Senator Symms. Mr. Chairman, are we proceeding on to the next bill?

The Chairman. On to the Social Security independent agency, yes.

Senator Symms. Mr. Chairman, may I make a brief comment?

The Chairman. Yes, of course.

Senator Symms. First, I would like to ask unanimous consent to insert in the record a letter from Lewis Sullivan stating the administration's position on these two issues.

The Chairman. That is fine because I was going to refer to it before passage of the final two. I probably should have by now.

Secretary Sullivan is not supportive of an independent agency or the earnings test as we proposed it.

Senator Symms. I would ask to put that in the record.

The Chairman. That would be fine.

(The letter appears in the appendix.)

Senator Symms. If I could make just a brief comment, Mr. Chairman, to say that I have always supported raising the earnings test since I first started in politics in 1972. I made it an issue in my original campaign for the House. So I have clearly been on record for this for basically philosophical reasons.

If there has ever been a law that is a disincentive for people to continue working who are able to and choose to, this is it. It seriously, I think, damages the work ethic by punishing people. So I like the part of the bill to raise this earnings test and allow people to continue to work.

I think that is important. But I want to say that while I support raising the earnings limit, I do not agree with the financing mechanism. It seems to me like to continue to increase taxes on Americans who are already taxed too much will only further frustrate their views of the Federal Government.

So I wish we could look for ways to reduce some spending to pay for this and stop taxing people for one very simple thing. All this bill is -- I mean the current law which taxes people for working once they reach a certain age is simply just a tax on the law of nature. If you grow a certain age then they tax you more if you want to continue working.

So I am disappointed that this bill is in this condition that is in. While I have the microphone I might also say I do not see any reason that will help administer this program to set up an independent agency. I do not think it is going to improve anything. Everything works fine the way it is and I oppose that also.

The Chairman. If you would proceed.

Senator Symms. Thank you, Mr. Chairman.

Senator Roth. Mr. Chairman, may I ask a question?

The Chairman. Yes, Senator Roth.

Senator Roth. Am I correct in understanding that under the proposal that was just accepted that that will amount to a tax increase of nearly $800 by year 2001 for a self-employed person? I think the exact figure is $765.

Mr. Davis. Senator Roth, in the year 2001 for an employed person this would amount to a tax increase of $316.20. So self-employed would be roughly doubled that.

Senator Roth. So it would be almost.

Mr. Davis. It would be a little over $632, I would think.

The Chairman. And by that time what would they be able to earn?

Mr. Davis. They would be able to earn $51,000.

The Chairman. All right.

Senator Roth. Thank you, Mr. Chairman.

The Chairman. Surely.

Mr. Davis. As you know, today the Social Security Administration is an agency of the Department of Health and Human Services. The proposal before you would convert the status of that agency to an independent agency not under any Department of the Executive Branch.

It would have the agency headed by a commissioner appointed by the President and that commissioner would be paid at a rate equivalent to a Cabinet member, level one of the Executive Service. The Commissioner would serve a four-year term coinciding with the President's term. He would be selected as a proven manager. He would prescribe the rules and regulations under which the agency operates and he would be required to consult regularly with the Secretary of Health and Human Services to assure that the Social Security and SSI programs which he administers are coordinated properly with Medicare, Medicaid and other programs of the Department.

The Commissioner would be advised by a seven-member bipartisan advisory board which would be appointed for six year terms on a truly bipartisan basis. Three members would be appointed by the President and no more than two from the same political party. Two members would be appointed by the Speaker of the House in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means. Again, no more than one of the same political party. And two would be appointed by the President Pro Tem of the Senate in

consultation with the Chairman and Ranking Minority Member of the Committee on Finance. Again, one of each party.

Presidential appointees would be subject to Senate confirmation. They would serve staggered terms. This board would meet at least six times a year to provide the Commissioner with advice on policies and major operational issues. They would make recommendations on methods for improving economic security through the Social Security programs. They would make recommendations for coordinating these programs with other important programs in health and income security. They would make an independent assessment of the annual report of the Board of Trustees. They would recommend to the President names of candidates for Commissioner and Deputy Commissioner. They would assess quality of service, review computer technology, assess progress in developing improvements, aid in increasing the public understanding of the Social Security system, and a variety of other duties which would be appropriate for a full advisory board.

There would be a Deputy Commissioner also appointed by the President with the advice and consent of the Senate for a four-year term. The bill provides for various officials which would be needed by the new agency -- the Solicitor, the Inspector General, a beneficiary ombudsman, which does not currently exist, who would be specifically charged with having

a special responsibility for looking after the interests of beneficiaries in the new administration.

There would be a Chief of Administrative Law Judge who would be responsible for all of the administrative law judge activities, the appellate activities of the agency. There would be a process, a very careful independent panel process developed and specified in law for selecting this Chief ALJ, so called.

There would be a Chief of Computer Systems; a Chief Actuary, which we certainly have today, who would consult on an ongoing basis with the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee; a Director of Research. These are the primary officials named in the bill.

The Commissioner Designate would have interim authority to begin moving once a bill was enacted to make sure for an orderly transition to the new agency. The Commissioner would be given certain authorities in personnel and budgetary matters and facilities and procurement which do not now exist in Social Security. He or she would have special experimental authority in personnel area to attract and pay badly needed computer professionals and others.

He or she would have special authority in the area of facilities, to acquire facilities outside the normal GSA procedures. These would be experimental or demonstration

projects. If they worked out, that would be fine. If they did not, they could be stopped. The Comptroller General, the Director of OPM, the Administrator of GSA would all be required to file reports by December 1997 on how these are going from their perspective and a final report before the projects end in 1999.

Senator Moynihan. Mr. Chairman.

The Chairman. Yes.

Senator Moynihan. I think we have a very careful explanation of the measure. Can I just take a moment to speak to it?

The Chairman. By all means.

Senator Moynihan. We are proposing now to return the Social Security Administration to its original organization as the Federal Security Agency in 1939. This was proposed by the Brownlow Committee as it called, the President's Committee on Administration Management.

I would like to just take a moment if I can to say that Luther Grueig, who is a Republican member of that committee, a professor at Columbia University. He is alive and well and answering his phone in upstate New York at age one hundred. I am going to call him and tell him we have come back to our senses.

(Laughter)

Senator Moynihan. I could say that the proposal for an

independent agency was unanimously recommended by the National Commission on the Social Security system in 1983. Our beloved former colleague, John Heinz, Senator Dole, Senator Armstrong, this Senator. I would like to say, sir, that our Subcommittees held very careful hearings on this matter and on a number of times. Most recently in 1990 Senator Pryor among others testified. Every major organization involved with the aged supports this measure as do Mr. Myers who of course is the Deputy Director of the National Commission.

The Chairman. Let me say to my colleague I appreciate his untiring efforts, his dedication, his commitment. I am delighted as Chairman of this Committee to support those efforts.

Senator Moynihan. Thank you, Mr. Chairman.

Senator Roth. Mr. Chairman?

The Chairman. Senator Roth.

Senator Roth. I think it is worthwhile to put in the record the position of the Secretary of Health and Human Services.

The Chairman. We have done that, Senator.

Senator Roth. Yes, but I want to ask a question, Mr. Chairman.

The Chairman. All right.

Senator Roth. In that letter they say, ''As now structured, one telephone call to SSA unlocks the door to a

wide variety of HHS programs. Any breakdown in the system would be detrimental to our goal of providing the best possible service to beneficiaries and all Americans. We are concerned that the public, including the elderly, blind, disabled children and poor, would lose the benefits of having all the services available to them housed in one strong responsive entity, HHS.''

I wonder what is the answer to the proponents to this question, that by having this as part of HHS it means only one stop is necessary in many situations. People generally speaking, as the letter points out, feel that they are getting good service from Social Security.

Are we moving away from efficiency and effectiveness or is this really going to provide better service for the American people?

The Chairman. I defer to Senator Moynihan for any comment.

Senator Moynihan. Well, I think one answer is that everyone, Republican and Democrat, who has been concerned with this issue supports this measure. I have to say to my friend from Delaware that he is quite right. He is reading a letter from the Secretary, but that letter is signed by a machine. The Secretary signs his name, M.D. If you would look at the Actuary's report -- I am sorry, the report of the trustees which he does sign, it is signed M.D.

(Laughter)

Senator Roth. Well, I would say, Mr. Chairman, I think we are all guilty of using such machines and I always stand behind that.

But the point I would say to my distinguished friend and colleague from New York is that under the current situation there can be one stop for many different needs. I think the American people are very concerned about the inefficiency, the ineffectiveness of government. That is the reason I would like to know from the proponents what is the answer to that.

Senator Moynihan. Oh, I could give you the answer, sir. That one stop is at the Social Security Administration Office. They now can refer you to other parts of the government, including Health and Human Services and they will continue to do so. They are so instructed in this measure.

Mr. Davis. I might add, Senator Roth, Social Security today takes Medicare eligibility determinations. That would continue.

Senator Moynihan. I mean just routinely.

Mr. Davis. They make some Medicaid determinations in connection with the SSI program. That would continue for the State agencies. They make some food stamp determinations for essentially out of the Department of Agriculture. That would continue. And they make referrals to other agencies in the community.

Senator Moynihan. And in the future they will not have to take directions from OMB as to how many people will be allowed to get disability.

Senator Roth. I wonder if the administration has any comment to make in answer.

Ms. Cozens. Thank you for allowing me to comment today, Mr. Chairman, members of the Committee. My name is Gail Cozens. I am the Associate Commissioner for Legislation and Congressional Affairs at the Social Security Administration. I would like to support what Senator Roth has said.

Removing the Social Security Administration from the Department of Health and Human Services would break a vital link at this point. We have independent studies that reflect that Social Security recipients are very pleased with the service they are being provided by the agency at this point.

To Senator Moynihan's comment regarding OMB, if I am correct and I hope if I am not someone will correct me, we will still be subject to the appropriation process.

Senator Moynihan. Well, of course.

Ms. Cozens. Because of that we see no compelling reason at this point to make the break between the Social Security Administration and the Department.

Senator Moynihan. Mr. Chairman, I know that there are two sides of the issue. But Senator Dole, Senator Heinz, as I say, Senator Armstrong, this Senator, this whole Committee is

for this. The House has passed this bill unanimously. The clock is running out on us, sir. We have to close at 11:00, I believe. That being the case --

Senator Chafee. Mr. Chairman, I would just like to say a couple words here if I might.

The Chairman. Well, you just go ahead and say them.

Senator Chafee. Well, thank you very much.

I do not know how I feel about this measure. It does seem to me if it ain't broken I am not sure why we are fixing it. But what I really am concerned about, if I understood what Mr. Davis was saying, that we are getting very, very specific in a whole series of positions within the administration, with the Social Security Administration.

To me it sounded like micro management. I did not understand why we have to delineate that there is going to be a Deputy Commissioner and then there is going to be a Council and then there is going to be an Actuary. I would expect there would be those positions. But whether we have to specifically say so by statute strikes me as odd.

How many specific delineations of positions did you have there?

Mr. Davis. Let me count, sir.

The Chairman. Let me state, Senator, back in 1989 we passed this out of Committee and that was on reconciliation. I recall they stripped out all of those things that did not

deal specifically with reconciliation.

Senator Chafee. I could not quite understand you.

The Chairman. I said we passed it in 1989. It was stripped out on the floor, as they stripped out all things that did not deal directly with the reconciliation measure.

Senator Chafee. Oh, you mean that is how --

The Chairman. It was passed out, the independent agency.

Senator Chafee. Yes. Look, I am not necessarily objecting to setting it up. I just have real concerns over the content of the legislation that has A, B, C, D, E, different positions. I do not know quite why we do that.

Senator Moynihan. Could I say to my friend that we can sit down and talk about that and have a floor amendment if it was in order.

Senator Chafee. That would be very agreeable.

Senator Moynihan. Just out of curiosity, Mr. Davis, how many?

Mr. Davis. According to my count, Senator Chafee, there are nine designated positions here.

Senator Chafee. I just wonder if in the Defense Department we have nine. Well, I suppose we do.

Mr. Davis. I would also add that a number of these positions already exist. Some do not.

Senator Moynihan. The one that does not now is an ombudsman, which I think is a good idea.

Senator Chafee. Thank you.

The Chairman. Are there further questions?

(No response.)

The Chairman. If not, may I have a motion to report out the measure?

Senator Moynihan. I propose we adopt the measure, sir.

(A second to the motion was made.)

The Chairman. The motion is made and seconded. All in favor make it known by saying aye.

(A chorus of ayes.)

The Chairman. Opposed, by similar sign.

(No response.)

The Chairman. The motion is reported out.

I would also like to have the customary authority for the staff in the drafting of all four bills that were reported out today. Is there objection?

(No response.)

The Chairman. If not, that is done.

Gentlemen, we will stand adjourned.

(Whereupon, the meeting adjourned at 11:00 a.m.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Committee Meeting, Committee on Finance, United States Senate, held on June 11, 1992, were transcribed as herein appears and that this is the original transcript thereof.

William J. Moffitt

WILLIAM J. MOFFITT
Official Court Reporter

My Commission Expires April 14, 1994.

DESCRIPTION OF REVENUE PROVISIONS FOR H.R. 5260 (UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992)

Scheduled for a Markup

by the

SENATE COMMITTEE ON FINANCE

on June 11, 1992

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

June 10, 1992

JCX-21-92

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of revenue-raising provisions for Senate Committee on Finance markup of H.R. 5260 (Unemployment Compensation Amendments of 1992). The Finance Committee markup is scheduled for June 11, 1992.

H.R. 5260 was passed by the House of Representatives on June 9, 1992.

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[1] This document may be cited as follows: Joint Committee on Taxation, Description of Revenue Provisions for H.R. 5260 (Unemployment Compensation Amendments of 1992) (JCX-21-92), June 10, 1992.

DESCRIPTION OF REVENUE PROVISIONS FOR H.R. 5260

1. Taxable Year Election for Partnerships, S Corporations, and Personal Service Corporations

Present Law

A partnership is generally required for Federal income tax purposes to use the taxable year that is used by a majority of its partners. An S corporation is generally required for Federal income tax purposes to use the calendar year as its taxable year. A personal service corporation also is generally required for Federal income tax purposes to use the calendar year as its taxable year.[2]

A partnership, S corporation, or personal service corporation, however, may elect to use a taxable year other than the required taxable year. In the case of a partnership, S corporation, or personal service corporation that is adopting a taxable year or changing a taxable year, the taxable year that may be elected generally may not result in a deferral period of more than three months. For this purpose, the deferral period generally is the number of months between (1) the beginning of the taxable year of the partnership, S corporation, or personal service corporation, and (2) the close of the first required taxable year that ends within such year.

A partnership or S corporation that elects a taxable year other than the required taxable year is required to make a payment to the Internal Revenue Service (a "required payment") that is designed to compensate the Federal government for the deferral of tax that results from the use of a taxable year other than the required taxable year. A personal service corporation that elects a taxable year other than the required taxable year is required to satisfy a minimum distribution requirement that applies to certain amounts paid by the personal service corporation to employee-owners.

Description of Proposal

A partnership, S corporation, or personal service corporation would be allowed to elect any taxable year

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[2] For this purpose, a personal service corporation is defined as a C corporation the principal activity of which is the performance of services if (1) the services are substantially performed by employee-owners, and (2) more than 10 percent of the stock of the corporation is owned by employee-owners.

without regard to the length of the deferral period of the taxable year elected if the annual financial statements (if any) of the entity used for credit purposes or provided to the partners, shareholders, or other proprietors of the entity cover the same period as the taxable year elected.

The proposal would increase the amount of the required payment that must be made by a partnership or S corporation that elects a taxable year other than the required taxable year (including any partnership or S corporation that has an election in effect on the date of enactment of the bill).[3] In addition, the proposal would require an additional required payment for any taxable year that a partnership or S corporation first makes a taxable year election or changes a taxable year election to increase the deferral period.

The proposal would also increase the minimum distribution requirement that must be satisfied by a personal service corporation that elects a taxable year other than the required taxable year (including a personal service corporation that has an election in effect on the date of enactment of the bill).

The proposal was included in H.R. 4210 as passed by the House and Senate.

Effective Date

The proposal would apply to taxable years beginning after December 31, 1991.

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[3] The required payment would be determined by using the highest rate of tax in effect under section 1 of the Code plus 2 percentage points.

2. Rollover and Withholding on Nonperiodic Pension Distributions

Present Law

Distributions from tax-qualified pension plans, qualified annuity plans and tax-sheltered annuities generally are includible in gross income in the year paid or distributed under the rules relating to the taxation of annuities. A total or partial distribution of the balance to the credit of an employee under a qualified plan, a qualified annuity plan, or a tax-sheltered annuity may, under certain circumstances, be rolled over tax free to another plan, or annuity or to an individual retirement arrangement (IRA). A rollover of a partial distribution is permitted if (1) the distribution equals at least 50 percent of the balance to the credit of the employee, (2) the distribution is not one of a series of periodic payments, (3) the distribution is made on account of death, disability, or separation from service, and (4) the employee elects rollover treatment. Minimum required distributions and after-tax employee contributions may not be rolled over.

Withholding on pension distributions is not required if the payee elects not to have withholding apply. If no election is made, tax is withheld from nonperiodic payments at a 10-percent rate, unless the payments are part of a qualified total distribution, in which case tables published by the Internal Revenue Service are used to determine the withholding rate. A qualified total distribution generally is a payment within one year of the entire interest in a plan.

Description of Proposal

Under the proposal, any portion of a distribution from a qualified pension or annuity plan or a tax-sheltered annuity (other than a minimum required distribution) could be rolled over tax free to an IRA or another qualified plan or annuity, unless the distribution is part of a series of substantially equal payments made (1) over the life (or life expectancy) of the participant or the joint lives (or joint life expectancies) of the participant and his or her beneficiary, or (2) over a specified period of 10 years of more.

In addition, a qualified plan or annuity or tax-sheltered annuity would be required to permit participants to elect to have any distribution that is eligible for rollover treatment transferred directly to an eligible transferee plan specified by the participant.

Under the proposal, withholding would be imposed at a rate of 20 percent on any distribution that is eligible to be rolled over but that is not transferred directly to an

eligible transferee plan. Payees could not elect to forego withholding.

A similar proposal was included in H.R. 4210, except that that provision does not change the withholding rules.

Effective Date

The proposal would be effective for years beginning after December 31, 1992.

3. Modify Estimated Tax Payment Rules for Large Corporations

Present Law

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning in 1993, 1994, 1995, and 1996, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 95 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 95 percent of the tax liability attributable to such annualized income.

For taxable years beginning in 1992, the 95-percent requirement is a 93-percent requirement; the 95-percent requirement becomes a 90-percent requirement for taxable years beginning in 1997 and thereafter.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of the tax liability shown on its return for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Description of Proposal

For taxable years beginning after June 30, 1992, and before 1997, a corporation would be required to base its estimated tax payments on 96 percent (rather than 93 or 95 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis. For taxable years beginning after 1996, a corporation would be required to base its estimated tax payments on 91 percent (rather than 90 percent) of its current year tax liability.

The proposal would not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

A similar proposal was included in H.R. 4210 as passed by the House and Senate.

Effective Date

The proposal would be effective for estimated tax payments applicable to taxable years beginning after June 30, 1992.

4. Mark-to-Market Accounting Method for Dealers in Securities

Present Law

A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of securities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market value of the securities; or (3) the market value of the securities.

If the inventory of securities is determined based on cost, unrealized gains and losses with respect to the securities are not taken into account for Federal income tax purposes. If the inventory of securities is determined based on the lower of cost or market value, unrealized losses (but not unrealized gains) with respect to the securities are taken into account for Federal income tax purposes. If the inventory of securities is determined based on market value, both unrealized gains and losses with respect to the securities are taken into account for Federal income tax purposes.

For financial accounting purposes, the inventory of securities generally is determined based on market value.

Description of Proposal

In general

Two general rules (the "mark-to-market rules") would apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer would be required to be included in inventory at its fair market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year would be treated as sold by the dealer for its fair market value on the last business day of the taxable year and any gain or loss would be required to be taken into account by the dealer in determining gross income for that taxable year.

Definitions

A dealer in securities would be defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade

or business.

A security would be defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract; and (5) any evidence of an interest in, or any derivative financial instrument in, a security described in (1) through (4) above or any currency, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

In addition, a security would be defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph. A security, however, would not include a contract to which section 1256(a) of the Code applies.

A hedge would be defined as any position that reduces the dealer's risk of interest rate or price changes or currency fluctuations. In addition, any security that is reasonably expected to become a hedge within 60 days after the acquisition of the security would be treated as a hedge.

Exceptions to the mark-to-market rules

Notwithstanding the definition of security, the mark-to-market rules generally would not apply to: (1) any security that is held for investment; (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of a trade or business of the dealer but only if the evidence of indebtedness is not held for sale; (3) any security that is acquired, entered into, or originated by a floor specialist (as defined in section 1236(d) of the Code) in connection with the specialist's duties on the exchange; (4) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules; and (5) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer. Except as otherwise provided in regulations to be promulgated by the Treasury Department, the exceptions to the mark-to-market rules for certain hedges would not apply to any security that is held by a taxpayer in its capacity as a dealer in such security.

The exceptions to the mark-to-market rules would not apply unless before the close of the day on which the security is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is clearly identified in the dealer's records as being described in one of the exceptions listed in the preceding paragraph.

In addition to clearly identifying a security as qualifying for one of the exceptions to the mark-to-market rules listed above, a dealer would be required to continue to hold the security in a capacity that qualifies the security for one of the exceptions listed above. If at any time after the close of the day on which the security was acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is not held in a capacity that qualifies the security for one of the exceptions listed above, then the mark-to-market rules would apply to the security after the date that the security no longer qualifies for one of the exceptions (i.e., only gains and losses attributable to the period that the security no longer qualifies for one of the exceptions would be taken into account under the mark-to-market rules).

Improper identification

If (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules would apply to any such security or position, except that loss would be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

Other rules

The uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles would not apply to any security to which the mark-to-market rules apply.

In addition, the Treasury Department would be authorized to promulgate such regulations as may be necessary or appropriate to carry out the proposal, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the proposal.

A similar proposal was included in H.R. 4210 as passed

by the House and Senate.

Effective Date

The proposal would apply to taxable years ending on or after December 31, 1992. A taxpayer that is required to change its method of accounting to comply with the requirements of the proposal would be treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change.

The net amount of the section 481(a) adjustment would be taken into account ratably over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992.

The excess (if any) of (1) the net amount of the section 481(a) adjustment for the first taxable year ending on or after December 31, 1992, over (2) the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992, would be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

The principles of section 8.03 of Rev. Proc. 92-20, 1992-12 I.R.B. 10, would apply to the section 481(a) adjustment. It is anticipated that section 8.03(1) of Rev. Proc. 92-20 would be applied by taking into account all securities of a dealer that are subject to the mark-to-market rules (including those securities that are not inventory in the hands of the dealer).

No addition to tax would apply to any underpayment of estimated tax that is due before the date of enactment of this proposal to the extent that the underpayment is attributable to the enactment of this proposal.

5. Tax Treatment of Certain FSLIC Financial Assistance

Present Law and Background

A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). In the case of a taxpayer on the specific charge-off method of accounting for bad debts, a deduction is allowable for the debt only to the extent that the debt becomes worthless and the taxpayer does not have a reasonable prospect of being reimbursed for the loss. If the taxpayer accounts for bad debts on the reserve method, the worthless portion of a debt is charged against the taxpayer's reserve for bad debts, potentially increasing the taxpayer's deduction for an addition to this reserve.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC)[4], and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by FIRREA, but still apply to transactions that occurred before May 10, 1989.

Prior to the enactment of FIRREA, the FSLIC entered into a number of assistance agreements in which it agreed to provide loss protection to acquirers of troubled thrift institutions by compensating them for the difference between the book value and sales proceeds of "covered assets." "Covered assets" typically are assets that were classified as nonperforming or troubled at the time of the assisted

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[4] Until it was abolished by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), FSLIC insured the deposits of its member savings and loan associations and was responsible for insolvent member institutions. FIRREA abolished FSLIC and established the FSLIC Resolution Fund (FRF) to assume all of the assets and liabilities of FSLIC (other than those expressly assumed or transferred to the Resolution Trust Corporation (RTC)). FRF is administered by the Federal Deposit Insurance Corporation (FDIC). The term "FSLIC" is used hereafter to refer to FSLIC and any successor to FSLIC.

transaction but could include other assets as well. Many of these covered assets are also subject to yield maintenance guarantees, under which the FSLIC guaranteed the acquirer a minimum return or yield on the value of the assets. The assistance agreements also generally grant the FSLIC the right to purchase covered assets. In addition, many of the assistance agreements permit the FSLIC to order assisted institutions to write down the value of covered assets on their books to fair market value in exchange for a payment in the amount of the write-down.

In September 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of FIRREA, issued a report to Congress and the Oversight Board of the RTC on certain FSLIC-assisted transactions (the "1988/89 FSLIC transactions"). The report recommended further study of the covered loss and other tax issues relating to these transactions. A March 4, 1991 Treasury Department report ("Treasury report") on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance. The Treasury report states that the Treasury view is expected to be challenged in the courts and recommended that Congress enact clarifying legislation disallowing these deductions.[5]

Description of Proposal

General rule

Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset would be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt would be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts.[6] For this purpose, FSLIC assistance means any assistance or right to assistance with respect to a domestic building and loan association (as defined in section

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[5] Department of the Treasury, Report on Tax Issues Relating to the 1988/89 Federal Savings and Loan Insurance Corporation Assisted Transactions, March, 1991 at pp. 16-17.

[6] It is expected that, for purposes of the adjusted current earnings adjustment of the corporate alternative minimum tax, there will not be any net positive adjustment to the extent that FSLIC assistance is taken into account as compensation for a loss or in determining worthlessness and there is, therefore, no deductible loss or bad debt charge-off.

7701(a)(19) of the Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).[7]

Financial assistance to which the FIRREA amendments apply

The proposal would not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference

No inference would be intended as to prior law or as to the treatment of any item to which this proposal does not apply.

The proposal was included in H.R. 4210 as passed by the House and Senate.

Effective Date

In general

The proposal would apply to financial assistance credited on or after March 4, 1991, with respect to (1) assets disposed of and charge-offs made in taxable years ending on or after March 4, 1991; and (2) assets disposed of and charge-offs made in taxable years ending before March 4, 1991, but only for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991.

For this purpose, financial assistance generally would be considered to be credited when the taxpayer makes an approved debit entry to a Special Reserve Account[8] required

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[7] FSLIC assistance for purposes of the proposal does not include "net worth assistance". "Net worth assistance" is generally computed at the time of an acquisition, without targeting loss coverage to ultimate dispositions or write-downs with respect to particular assets.

[8] Under most assistance agreements, one or more Special Reserve Accounts are established and maintained to account for the amount of FSLIC assistance owed by the FSLIC to the acquired entity. The assistance agreements generally specify the precise circumstances under which amounts with respect to covered assets are debited to an account. Under the assistance agreements, these debit entries generally are made subject to prior FSLIC direction or approval. When amounts

(Footnote continued)

to be maintained under the assistance agreement to reflect the asset disposition or write-down. An amount would also be considered to be credited prior to March 4, 1991 if the asset was sold, with prior FSLIC approval, before that date.

An amount would not be deemed to be credited for purposes of the provision merely because the FSLIC has approved a management or business plan or similar plan with respect to an asset or group of assets, or has otherwise generally approved a value with respect to an asset.

Application to certain net operating losses

The proposal would apply to the determination of any net operating loss[9] carried into a taxable year ending on or after March 4, 1991, to the extent that the net operating loss is attributable to a loss or charge-off for which the taxpayer had a right to FSLIC assistance which had not been credited before March 4, 1991.

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[8](continued)
are so debited, the FSLIC generally becomes obligated to pay the debited balance in the account to the acquirer at such times and subject to such offsets as are specified in the assistance agreement.

[9] For purposes of determining any alternative minimum tax net operating loss carryover to periods ending on or after March 4, 1991, it is expected that the principles described in the foootnote above, regarding the adjusted current earnings adjustment, will apply.

UNEMPLOYMENT COMPENSATION

MARKUP DOCUMENT

I. Extension of Emergency Unemployment Compensation (EUC) Program

Present Law. - The Emergency Unemployment Compensation (EUC) program, first enacted in November 1991 and amended most recently on February 7, 1992, currently provides 33 weeks of emergency unemployment benefits to long-term unemployed workers who live in States that qualify as "high unemployment" States. Workers in all other States may receive up to 26 weeks of emergency benefits. These benefits are payable to individuals who have exhausted their regular State benefits (generally 26 weeks).

In order to qualify for 33 weeks of benefits, a State must have either (1) a total unemployment rate (TUR) of 9 percent or higher for the period consisting of the most recent 6-month calendar period for which data are published, or (2) an adjusted insured unemployment rate (AIUR) of 5 percent or higher for the most recent 13 week period. In determining the adjusted rate of insured unemployment, the Secretary is directed to take into account individuals who have exhausted their rights to regular compensation during the most recent 3 calendar months for which data are available.

Number of weeks of Benefits for States as of May 31

26 Weeks	33 Weeks
Alabama	Alaska
Arizona	Arkansas
Colorado	California
Delaware	Connecticut
D. C.	Idaho
Florida	Maine
Georgia	Massachusetts
Hawaii	Michigan
Illinois	Montana
Indiana	Nevada
Iowa	New Jersey
Kansas	New York
Kentucky	Oregon
Louisiana	Pennsylvania
Maryland	Rhode Island
Minnesota	Vermont
Mississippi	Washington
Missouri	West Virginia
Nebraska	
New Hampshire	
New Mexico	
North Carolina	
North Dakota	
Ohio	

26 Weeks	33 Weeks
Oklahoma	
South Carolina	
South Dakota	
Tennessee	
Texas	
Utah	
Virgin Islands	
Virginia	
Wisconsin	
Wyoming	

Benefits are fully Federally-funded out of the Extended Unemployment Compensation Account, except for benefits for employees of non-profit and governmental entities, which are paid out of general revenues.

Individuals who become eligible for emergency benefits after June 13 will qualify for up to 20 weeks of benefits in "high unemployment" States, and 13 weeks of benefits in all other States. Those who exhaust their regular State benefits after July 4 will not be eligible for any weeks of emergency benefits.

Explanation of Provision. - The schedule of benefits enacted on February 7 (33 weeks for workers in high unemployment States and 26 weeks in all others) will be continued for so long as the seasonally-adjusted national unemployment rate remains at 7 percent or higher. However, if for two consecutive months the national unemployment rate falls below 7 percent, the number of weeks of benefits will be reduced to 15 and 10. The number of weeks of benefits will be further reduced (to 13 and 7 weeks) if, for two consecutive months the national unemployment rate falls below 6.8 percent.

The EUC program would expire on March 6, 1993. Workers who exhaust regular State benefits after that date would be ineligible for EUC benefits. Individuals who began receiving EUC benefits on or before that date would be entitled to the full number of weeks of benefits for which they were found eligible.

The new EUC benefits would be paid out of general revenues.

II. Optional Extended Benefits (EB) Trigger

Present Law. - Under present law, unemployed workers are paid up to 26 weeks of regular unemployment benefits financed by State unemployment taxes on employers. In States with high unemployment, the extended benefits (EB) program pays up to 13 weeks of additional benefits to workers who have exhausted their regular State benefits. The EB program is a joint Federal-State program, half of which is financed by Federal unemployment taxes

on employers and half by State taxes.

The EB program is activated in a State when: (1) the State's insured unemployment rate (IUR) has averaged at least 5 percent for 13 consecutive weeks, and (2) that rate is at least 120 percent of the State's average insured unemployment rate for the corresponding 13-week period in both of the 2 preceding years. At their option, States may apply an alternative trigger mechanism. Under the alternative, extended benefits may be paid if a State's insured unemployment rate is at least 6 percent, even though the rate is less than 120 percent of the rate in the preceding 2 years.

Explanation of Provision. - Effective March, 1993, States would have the option of using an additional alternative trigger. Under this option, EB benefits would be paid when: (1) the State's seasonally adjusted total unemployment rate (TUR) for the most recent 3 months is at least 6.5 percent and, (2) that rate is at least 110 percent of the State's average TUR for the corresponding 3-month period in either of the 2 preceding years.

III. Other Provisions

A. Extension of Benefits for Railroad Workers

Present Law. - Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under the regular State unemployment compensation programs. Under current law, railroad employees with less than 10 years of service in the railroad industry are not eligible for any extended benefits due to a statutory flaw in the trigger mechanism. However, the unemployment legislation enacted previously to provide emergency unemployment benefits to other workers also provided additional weeks of extended benefits for qualifying railroad workers (P. L. 102-164, P. L. 102-182, and P. L. 102-244). These special benefits for railroad workers expire July 4, 1992.

Explanation of Provision. - The period during which qualifying railroad workers may qualify for benefits would be extended to March 6, 1993. This provision is being included at the request of the Committee on Labor and Human Resources.

B. Modify Work Search Rules for Areas of High Unemployment.

Present Law. - Federal rules enacted in 1980 require "systematic and sustained" work search by individuals who are receiving EB benefits. These same rules apply to recipients of EUC benefits. The Committee has heard testimony that these rules, as interpreted by the courts, frequently require workers to make repeated contacts with employers each week, even in areas where unemployment is very high and there are very few employers.

Explanation of Provision. - The Governor of a State would be allowed to waive the Federal work search rules (and apply State rules instead) in an area that the Governor designates as an area of exceptionally high unemployment. The Secretary of Labor would be authorized to issue regulations providing guidelines for determining the circumstances under which waivers could be granted. The provision would be effective upon enactment and would apply to both the EUC and EB programs.

C. Modify EUC and EB Eligibility Criteria

Present Law. - In determining whether a worker is eligible for benefits under the emergency unemployment compensation program, a State must follow the eligibility rules that apply to the permanent extended benefits (EB) program. The EB statute provides that an individual may not be eligible for extended benefits unless, in the base period used to determine the individual's eligibility for regular State benefits, the individual meets one of the following three requirements: (1) had 20 weeks of full-time insured employment; (2) had covered earnings which exceed 40 times the individual's most recent weekly benefit amount; or (3) had covered earnings exceeding 1-1/2 times the individual's insured wages in the calendar quarter in which the individual's insured wages were the highest. The State is required to provide by law which one of the three foregoing methods of measuring employment and earnings will be used for determining eligibility of all claimants.

Explanation of Provision. - In determining EUC and EB benefits, States may use all of the three eligibility criteria that are specified in the Federal EB statute, rather than being required to choose one of three. The provision is effective upon enactment.

D. Continued Eligibility for EUC

Present Law. - Under current law, a worker who qualifies for regular State benefits is automatically ineligible for EUC benefits. This has resulted in a perceived "penalty" for some long-term unemployed workers who, after exhausting their regular State benefits, have tried to "do the right thing" by taking part-time or temporary jobs to tide them over until they find a permanent job. As a result of this limited employment, they may establish a new benefit year and qualify once again for regular State benefits, thus losing their eligibility for EUC benefits. EUC benefits, because they are generally paid on the basis of more sustained work history, are likely to be significantly higher than the State benefits for which these workers are newly eligible.

Explanation of Provision. - If an individual exhausted his rights to regular benefits for any benefit year, the individual's eligibility for EUC benefits with respect to that benefit year would be determined without regard to any rights to regular compensation for a subsequent benefit year, so long as the individual did not file a claim for regular compensation for such subsequent benefit year. The provision is effective upon enactment.

E. Clarify that States May Operate Short-time Compensation Programs

Present Law. - Legislation in 1982 specifically authorized States to operate short-time compensation programs under which they are allowed to pay pro rata benefits to individuals who are working less than full time because their employer has a plan that provides for a reduction in work hours for employees rather than making temporary layoffs. A number of States have elected to operate such programs. However, the authorization has expired, and these programs are operating without specific statutory authority.

Explanation of Provision. - Effective upon enactment, the provision would give States permanent authority to operate short-time compensation programs under which they may pay pro rata benefits to individuals who are working less than full time because their employer has a plan approved by the State agency that provides for a reduction in work hours for employees rather than temporary layoffs.

F. Provide Information About EITC Eligibility

Present Law. - State agencies send Form 1099-G to all unemployment compensation beneficiaries, informing them of the amount of benefits they have been paid for purposes of filing Federal income tax returns. However, an OMB Circular requires that if the agencies include any other information with the 1099-G mailings, they must share the cost of postage, even if the additional information does not add to the total postage cost. This has created a disincentive for States to include enclosures with these mailings.

Explanation of Provision. - Effective upon enactment, States would be allowed to include information on the earned income tax credit (EITC) in their Form 1099-G mailings at no cost as long as the additional information does not increase the postage costs of the mailing.

G. Provide Information About Taxation of Benefits

Present Law. - Unemployment compensation benefits are taxable income for purposes of Federal income tax law. However, there is no provision for income tax withholding from these benefits, and individuals are sometimes unaware of their tax liability.

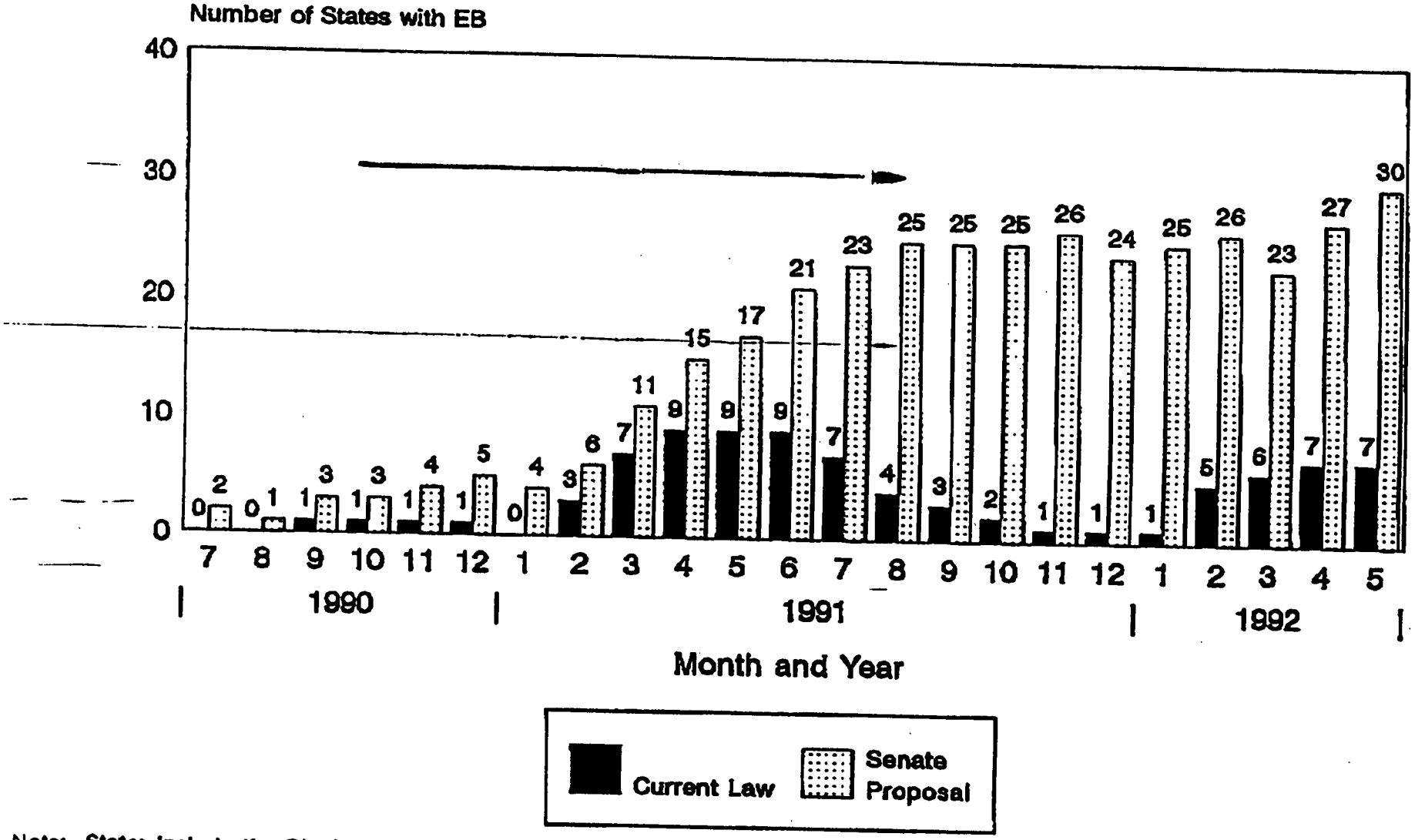
Explanation of Provision. - Effective October 1, 1992, State agencies would be required to provide information to recipients about taxation of benefits and make information forms available for filing estimated taxes.

June 10, 1992

UNEMPLOYMENT COMPENSATION PROPOSAL

	Fiscal Year						
	1992	1993	1994	1995	1996	1997	Total
EUC							
Benefits	870	2720	0	0	0	0	3590
Work Search	20	70	0	0	0	0	90
Eligibility Criteria	45	145	0	0	0	0	190
Continued Benefits	5	20	0	0	0	0	25
Railroad Workers	*	2	0	0	0	0	2
Administration	30	0	0	0	0	0	30
Extended Benefits							
Optional Trigger	0	620	405	230	70	70	1395
Work Search	0	15	10	5	2	2	34
Eligibility Criteria	0	35	25	10	5	5	80
Basic Program							
Allow Short-time Compensation	0	0	0	0	0	0	0
Information on EITC Eligibility	0	0	0	0	0	0	0
Information on Taxation of Benefits	0	*	*	*	*	*	*
TOTAL	970	3627	440	245	77	77	5436

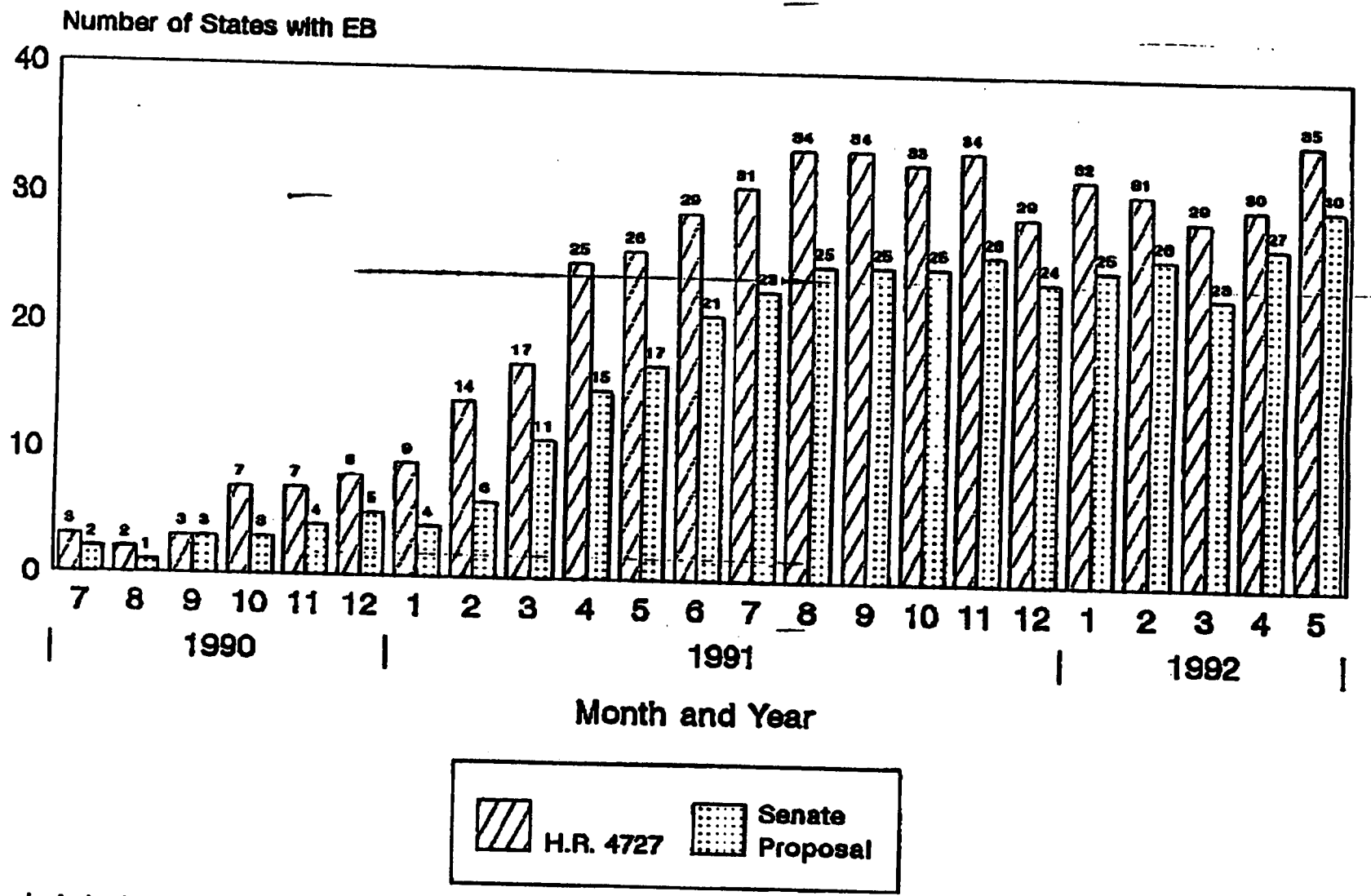
CHART 1. Number of States with EB Available
Under Current Law and Senate Proposal Triggers
July 1990 to May 1992



Note: States include the District of Columbia and Puerto Rico.
Source: Estimates and chart prepared by CRS based on data from U.S. Department of Labor (DoL).

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CHART 2. Number of States with EB Available
Under H.R. 4727 and Senate Proposal Triggers
July 1990 to May 1992



Note: States include the District of Columbia and Puerto Rico.
Source: Estimates and chart prepared by CRS based on data from U.S. Department of Labor (DoL).

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PRELIMINARY
10-Jun-92

- Senate Finance Committee -

ESTIMATED REVENUE EFFECTS OF POSSIBLE UNEMPLOYMENT BILL

Fiscal Years 1992-1997

[Billions of Dollars]

Item	Effective	1992	1993	1994	1995	1996	1997	1992-97
Unemployment Compensation Bill:								
Unemployment compensation proposal (1)	--	-0.970	-3.627	-0.440	-0.245	-0.077	-0.077	-5.436
Revenue-Raising Provisions:								
1. Taxable years of partnerships, etc.	tyba 12/31/91	0.129	0.310	-0.092	-0.192	0.003	0.001	0.160
2. Rollover and withholding on nonperiodic pension distributions	1/1/93	--	2.143	0.001	0.001	0.001	0.001	2.147
3. Increase corporate estimated tax to 96%	(2)	--	0.799	-0.174	0.016	0.016	0.048	0.706
4. Mark-to-market for securities dealers (3)	tyeo/a 12/31/92	0.118	0.354	0.482	0.492	0.502	0.512	2.460
Subtotal: Revenue-Raising Provisions		0.247	3.606	0.217	0.317	0.522	0.562	5.473
NET SUBTOTALS		-0.723	-0.021	-0.223	0.072	0.445	0.485	0.037
Prohibit double dipping by thrifts receiving Federal financial assistance (4)	3/4/91	0.227	0.115	0.080	0.083	0.004	-0.088	0.421
GRAND TOTALS		-0.496	0.094	-0.143	0.155	0.449	0.397	0.458

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: tyba = taxable years beginning after
tybo/a = taxable years ending on or after

(1) Estimates for proposal not supplied by Joint Committee on Taxation staff.
(2) Increase rate from 93% to 96% for taxable years beginning after 6/30/92; increase rate from 95% to 96% for taxable years beginning after 12/31/92. For taxable years beginning after 12/31/96, increase rate from 90% to 91%.
(3) Estimates for this provision assume rules are implemented to prevent abuse of spread amount.
(4) It is the opinion of CBO that this amount should not appear on a pay-as-you-go scorecard.

June 9, 1992

SOCIAL SECURITY AMENDMENTS

PART I

Present Law

1. LIBERALIZATION OF THE EARNINGS TEST

In 1992, social security beneficiaries age 65-69 who earn more in annual wages and self-employment income than the exempt amount of $10,200 have their benefits reduced.

Benefits are reduced by $1 for each $3 of earnings above the exempt amount, a reduction rate of 33-1/3%.

The exempt amount is increased each year by an indexing factor based on average wages in the economy.

Current law provides that the dollar level of substantial gainful activity (SGA) for the blind, used in determining eligibility for disability benefits, is the same as the annual earnings test exempt amount for individuals 65-69.

Proposed Change

1. LIBERALIZATION OF THE EARNINGS TEST

In 1993 through 2001, the proposal would gradually raise the exempt amount that establishes the amount of earnings an individual age 65 to 69 can have with no loss of benefits. By 1997, the exempt amount would rise from its present law projected level of $12,720 to $21,000. It would continue to increase until it reached $51,000 in 2001. The table below shows the exempt amounts for each year 1993-2001.

BENEFIT REDUCTION BEGINS WHEN EARNINGS EXCEED

	Present Law	*Proposal*
CBO Estimates:		
1993	$10,680	$11,100
1994	11,160	12,240
1995	11,640	13,560
1996	12,120	17,400
1997	12,720	21,000
SSA Estimates:		
1998	13,200	27,000
1999	13,920	32,040
2000	14,640	42,000
2001	15,360	51,000

Beginning in 1998, the proposal also would lower to 25% the marginal reduction rate on the first $5,000 of earnings above the proposed exempt amounts. Above that level of earnings, the present law 33-1/3% rate would apply.

Present Law

Proposed Change

The proposal would not change the measure of substantial gainful activity (SGA) for the blind. It would remain at the level of the age 65-69 earnings test exempt amounts established under present law, indexed by the annual increase in average wages.

2. ALLOW DISABLED ADULT CHILDREN TO MARRY WITHOUT LOSING BENEFITS

Disabled adult children are individuals who were disabled before they reached age 22 and are entitled to benefits as dependents or survivors of retired, disabled or deceased workers. If such individuals marry someone who is not also a Social Security beneficiary, they permanently lose all Social Security and Medicare benefits.

2. ALLOW DISABLED ADULT CHILDREN TO MARRY WITHOUT LOSING BENEFITS

The proposal would allow a disabled adult child to marry anyone in the future without losing Social Security or Medicare benefits. Those who have lost their benefits in the past due to marriage may reapply for benefits. If they were found to be disabled, their benefits would be reinstated on the later of the effective date of the proposal or 12 months prior to the date of their reapplication.

The proposal would be effective on September 1, 1993.

Present Law

3. LOWER EARLY RETIREMENT REDUCTIONS FOR ELDERLY WIDOWS AND WIDOWERS

The basic benefit for widows and widowers who first claim benefits at age 65 is 100% of the amount their deceased spouse would have received had he or she retired at age 65. However, widows or widowers who claim benefits between ages 60 and 65 have their basic benefit reduced by 5.7% for every year they took early benefits, for a maximum reduction of 28.5% at age 60. Further, if their deceased spouse received a reduced benefit because he or she retired before age 65, a widow or widower cannot receive a benefit that exceeds the higher of the spouse's reduced retirement benefit or 82.5% of the benefit the spouse would have received had he or she retired at age 65.

Proposed Change

3. LOWER EARLY RETIREMENT REDUCTIONS FOR ELDERLY WIDOWS AND WIDOWERS

The proposal would apply only to widows and widowers who are age 85 or older. It would change the reduction for those who initially claimed benefits between ages 60 and 65 from the current 5.7% to 4% per year. It would limit the benefit reduction for those whose spouses retired early to a minimum benefit level equal to 90% of the spouse's full, age 65 benefit.

The proposal would also provide that widows and widowers currently eligible for Medicaid based on their eligibility for Supplemental Security Income (SSI) would retain their Medicaid eligibility even if the increase in their Social Security benefits eliminated all SSI payments.

The proposal would be effective with respect to benefits for the month of September, 1993 and thereafter.

Present Law

4. INCREASE COVERAGE EXCLUSION FOR ELECTION WORKERS

The 1990 reconciliation legislation required States to pay into social security for workers who are not otherwise covered by a State or local retirement program; earlier legislation required them to cover new hires under Medicare Hospital Insurance. However, a prior law provision excluded election workers who are paid less than $100 per year. Concerns have been expressed by a number of States including Illinois, Missouri, Pennsylvania, and New York that this amount may be insufficient to exclude individuals employed in those States as election workers.

Proposed Change

4. INCREASE COVERAGE EXCLUSION FOR ELECTION WORKERS

Under the proposal, election workers who earn less than $1,000 per year would be excluded from Social Security and Medicare coverage beginning in 1993. In addition, the earnings of election workers for the period October 1, 1992 through December 31, 1992, would be excluded from Social Security and Medicare coverage if they were less than $500.

Present Law

5. STABILIZE THE OASDI CONTRIBUTION AND BENEFIT BASE

The amount of annual earnings subject to social security taxes and creditable for benefits is limited by a "contribution and benefit base." In the early years of the program, the contribution and benefit base was set at a level where more than 90 percent of covered wages were taxable. The base was not then indexed and over the years a series of legislated increases failed to maintain the 90 percent level of coverage. In 1977, Congress enacted a new series of legislated base increases to restore the base to a level of 90 percent of total covered wages, and expected that subsequent indexing of the base by the annual increase in average wage levels would maintain the 90% relationship in the future. However, the proportion of total wages subject to tax fell below 90% in 1987 and dropped to 88.6% by 1990 (the last year for which actual data are available). The Congressional Budget Office and the Social Security Administration estimate that, under present law average wage indexing procedures, the percentage of wages covered under the OASDI base will continue to fall, reaching 88.5% in 1992 under CBO assumptions and declining steadily thereafter until it is at 87.4% in 2001 under SSA assumptions. The Social Security actuary believes that this decline is occurring because wages at higher levels are growing at a greater rate than the rate of increase in the average of all wages.

Proposed Change

5. STABILIZE THE OASDI CONTRIBUTION AND BENEFIT BASE

The proposal would establish an alternate indexing mechanism for the OASDI contribution and benefit base that would be used only when the average wage indexing mechanism fails to keep the percentage of wages subject to taxation under the base from falling. Because the percentage of wages covered by the base is expected to continue to fall under both CBO and SSA assumptions, this base stabilization mechanism is expected to be used to determine the base in the years 1993-2001. It would arrest the unintended decline of the OASDI base and stabilize the base at 88.2% of wages under CBO assumptions for 1993-1997, and at 88.1% of wages under SSA assumptions for 1998-2001. The estimated effect of the proposal on the OASDI base amounts is:

OASDI Base

	Present Law		*Proposal*	
	Base Amount	% of Wages Covered	Base Amount	% of Wages Covered
CBO Estimates:				
1993	$57,900	88.2%	$58,200	88.2%
1994	60,300	88.1	60,600	88.2
1995	63,600	88.1	64,500	88.2
1996	66,300	88.0	67,500	88.2
1997	69,300	87.9	71,100	88.2
SSA Estimates:				
1998	72,600	87.7	75,300	88.1
1999	76,500	87.6	79,800	88.1
2000	80,400	87.5	84,600	88.1
2001	84,600	87.4	89,700	88.1

Present Law

Proposed Change

A technical change would also be made in the current average wage indexing mechanism to add stability and make the base less subject to annual fluctuations due to arithmetic rounding.

The separate, higher Medicare Hospital Insurance (HI) wage base would, as in the past, be indexed by the percentages used to index the OASDI base. Indexing by the percentages resulting from this proposal would somewhat slow the decline that is expected to occur in the percentage of wages covered under the HI base.

The wage base stabilization proposal would finance all of the Social Security and other costs of the proposals in the markup package through FY 1997, in accordance with the Budget Act. It would continue to finance all Social Security costs through 2001 and beyond. The Social Security Administration estimates a positive effect on the long-range, 75 year actuarial status of the Social Security trust funds equal to more than .05 percent of taxable payroll.

Present Law

Proposed Change

SOCIAL SECURITY AMENDMENTS

PART II

INDEPENDENT AGENCY

a. Status of agency. -SSA is a component of the Department of Health and Human Services (HHS).

b. Agency leadership and management. - The Secretary of Health and Human Services (HHS) has responsibility for administration of the OASDI and SSI programs. Administration of these programs has been delegated to the Commissioner of Social Security. The Commissioner reports only to the Secretary. The Commissioner is compensated at the rate for level IV of the Executive Schedule.

INDEPENDENT AGENCY

a. Status of agency. - SSA would be made an independent agency in the executive branch of the Government, with primary responsibility for administration of the Old Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs.

b. Agency leadership and management. - SSA would be governed by a Commissioner appointed by the President, by and with the advice and consent of the Senate, for a 4-year term coinciding with the term of the President (or until the appointment of a successor). The Commissioner would be compensated at the rate for level I of the Executive Schedule (equivalent to Cabinet officer pay). The Commissioner would be selected on the basis of proven competence as a manager, and would be responsible for the exercise of all powers and the discharge of all duties of SSA, have authority and control over all personnel and activities of the agency, and serve as a member of the 5-member Board of Trustees (the Secretary of Labor would no longer be a member of the Board).

The Commissioner may prescribe rules and regulations; establish, alter, consolidate, or discontinue organizational units and components of the agency (except for those prescribed by law); and assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Commissioner may find necessary.

The Commissioner and the Secretary of Health and

Present Law

Proposed Change

Human Services would be directed to consult with one another on an on-going basis to assure: (1) the coordination of the social security, SSI, and medicare and medicaid programs and (2) that adequate information concerning medicare and medicaid benefits will be available to the public.

There would be a 7-member part-time Advisory Board appointed for 6-year terms, made up as follows: 3 appointed by the President (no more than 2 from the same political party), 2 each (no more than 1 from the same political party) by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority Member of the Committee on Finance). Presidential appointees would be subject to Senate confirmation. Appointees would serve staggered terms. The chairman of the Board would be appointed by the President for a 4-year term. The Board would meet at least 6 times each year and generally would be responsible for giving advice on policies and major operational issues. Compensation of the members would be set at a rate equal to 25 percent of level III of the Executive Schedule (except for meeting days when it would be equivalent to that of the daily rate of level III of the executive schedule). Other benefits (except for health insurance) would not accrue. The Board would have authority to appoint an SES staff director and hire its own staff.

Specifically the Board would:
-make recommendations as to the most effective methods of providing economic security through social security and supplemental security income;
-make recommendations relating to the coordination of such programs with other programs providing economic and health security;
-make an independent assessment of the annual

Present Law

Proposed Change

report of the Board of Trustees and advise the President and the Congress on the implications of the assessment;
-recommend to the President names to consider in selecting his nominee for the positions of Social Security Commissioner and Deputy Commissioner;
-review and assess the quality of service that the agency provides to the public;
-assess annually the state of the agency's computer technology;
-review and assess the agency's progress in developing needed management improvements;
-increase public understanding of the social security system;
-review the development and implementation of a long-range research and program evaluation plan for the agency;
-review and assess any major studies of social security; and
-conduct such other reviews and assessments as may be appropriate.

c. Deputy Commissioner of Social Security. - Under current SSA practice, there is one Principal Deputy Commissioner and five Deputy Commissioners (for management, operations, systems, policy and external affairs, and programs) who serve under the commissioner. None of these are statutory positions. The Principal Deputy Commissioner is designated to serve as Acting Commissioner in the absence of the Commissioner.

c. Deputy Commissioner of Social Security. - A Deputy Commissioner would be appointed by the President, with the advice and consent of the Senate, for a 4-year term coinciding with the term of the Commissioner or until appointment of a qualified successor.

The Deputy Commissioner would perform such duties and exercise such powers as are assigned by the Commissioner, and serve as acting Commissioner during the absence or disability of the Commissioner (or vacancy of office) unless the President designates someone else. He or she would be compensated at the rate provided for level II of the Executive Schedule.

Present Law	Proposed Change
d. General Counsel. - SSA receives legal services from the Office of General Counsel of HHS through a component headed by a Chief Counsel for Social Security.	d. Solicitor. - A Solicitor would be appointed by and serve at the pleasure of the Commissioner as SSA's principal legal officer. The Solicitor would be responsible for managing the agency's litigation workload. Compensation would be set at level IV of the Executive Schedule.
e. Inspector General. - The Inspector General of HHS is responsible for oversight of SSA.	e. Inspector General. - An Office of Inspector General would be created within SSA, to be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978. He or she would be compensated at the rate provided in level IV of the Executive Schedule.
f. Beneficiary Ombudsman. - No formal position of this nature exists within SSA.	f. Beneficiary Ombudsman. - An Office of Beneficiary Ombudsman, headed by a beneficiary ombudsman appointed by the Commissioner, would be created within SSA. The term of office would be 5 years. The ombudsman may serve up to one additional year or until a successor has taken office (at the request of the Commissioner). The Beneficiary Ombudsman would: -represent the interests and concerns of OASDI and SSI beneficiaries (and potential beneficiaries), within SSA's decision making process; -review SSA's policies and procedures for possible adverse effects on beneficiaries (and potential beneficiaries); -recommend within SSA's policy making process changes in policies which have caused problems for beneficiaries; -help resolve problems for individual beneficiaries in unusual or difficult circumstances; and -represent the views of beneficiaries within SSA's policy making process in the design of forms and the issuance of instructions.

Present Law	Proposed Change
	The Commissioner would assure that the Office of Beneficiary Ombudsman is sufficiently staffed. The annual report of the Commissioner would include a description of the activities of the beneficiary ombudsman.
g. Administrative law judges. - The Social Security Act requires SSA to conduct hearings to consider appeals of SSA decisions by recipients. These hearings are conducted by administrative law judges (ALJs). Although not required by law, the agency follows the procedures of the Administrative Procedures Act (APA) with respect to the appointment of ALJs and the conduct of hearings. The ALJs are located organizationally within the Office of Hearings and Appeals, headed by an associate commissioner who reports to the commissioner of SSA.	g. Administrative law judges. - An office of Chief Administrative Law Judge, headed by a chief ALJ appointed by the Commissioner for a 5-year term, would be created within SSA to administer the affairs of SSA's ALJ's in a manner so as to ensure that hearings and other business are conducted in accordance with applicable law and regulations. All functions relating to hearings before an ALJ would be under the operational control of the Chief ALJ. The Chief ALJ would report directly to the Commissioner. The term of the Chief ALJ may be extended until he or she is reappointed or a qualified successor is appointed. The Chief ALJ may be removed from office before completion of the term only if the Commissioner makes a finding of "neglect of duty" or "malfeasance" and the Commissioner transmits such a finding to the Speaker of the House and the President pro tempore of the Senate. Compensation would be set at the rate provided for level V of the Executive Schedule. To be eligible for the position of Chief ALJ an individual would have to have served at least three years as an ALJ. An independent panel would be created by the Commissioner at least 90 days before the appointment of a Chief ALJ (except no such time frame would exist for the initial appointment), to recommend a list of at least 3 candidates for the position. For the initial appointment the list of candidates would have to be submitted within 60 days of appointment of the panel and within 60 days for subsequent appointments or reappointments. If the

Present Law	Proposed Change
	Commissioner rejects all candidates from the list and appoints some other individual, he or she would have to send a written explanation of the decision to do so to the House Ways and Means and the Senate Finance Committees. Participation on the panel would be offered to (1) the Chairman of the Administrative Conference of the U.S. (or a representative thereof), (2) the President of the American Bar Association (or a representative thereof), (3) the President of the Federal Bar Association (or a representative thereof), (3) the President of the Federal Bar Association (or a representative thereof), and (4) other individuals whom the Commissioner determines to be appropriate. While engaging in the business of the panel, non-federal members would be compensated at a daily rate equivalent to an SES position, as well as for travel expenses. The panel would exist until the appointment was made.
h. Chief of Computer Systems Operations. - No formal position of this nature exists within SSA, although comparable functions fall within the responsibility of the Deputy Commissioner for Systems.	h. Chief of Computer Systems Operations. - A Chief of Computer Systems Operations would be appointed and serve at the pleasure of the Commissioner. Compensation would be set at the rate provided for level IV of the Executive Schedule.
i. Chief Actuary. - The Office of the Actuary of SSA, headed by a Chief Actuary, is part of the Office of SSA's Deputy Commissioner for Programs.	i. Chief Actuary. - An SES position (Level 6) of Chief Actuary would be established for the purpose of advising on the financial status of the OASDI trust funds. The Chief Actuary would be required to consult on an ongoing basis concerning the financial status of the OASDI Trust Funds with (1) the Commissioner, (2) the Chairman of the Senate Finance Committee, and (3) the Chairman of the House Ways and Means Committee.

Present Law	Proposed Change
j. Director of Research. - There is an Office of Research and Statistics within SSA's Office of Policy.	j. Director of Research. - A Director of Research would be appointed by and serve at the pleasure of the Commissioner. Compensation would be set at the rate provided for level V of the Executive Schedule.
k. Interim authority of the commissioner. - No provision.	k. Interim authority of the commissioner. - The nominations and appointments provided for under the provisions of the Act may be made at any time on or after enactment. The Commissioner of Social Security would have authority to prescribe regulations providing for the orderly transfer of proceedings before the Secretary of HHS to the Commissioner of Social Security.
l. Personnel; budgetary matters; facilities and procurement; seal of office. -	l. Personnel; budgetary matters; facilities and procurement; seal of office. - The Commissioner would appoint additional officers and employees to carry out the functions of SSA (with compensation fixed in accordance with title 5 of the U.S. Code, except as otherwise provided), and procure the services of experts and consultants. The Director of Office of Personnel Management (OPM) would be required to give SSA an allotment of SES positions that is substantially greater than the number authorized to SSA immediately before enactment of this Act to the extent a larger number is specified in a comprehensive work plan developed by the Commissioner, and the total number of such positions could not be reduced at any time below the number SSA held immediately before enactment of this Act. The Commissioner (jointly with the Director of OPM and the Administrator of General Services, as appropriate) would be directed to: carry out demonstration projects under which the Commissioner would be able to appoint computer specialists and other professional and technical specialists without regard to the civil service

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classification system; perform functions relating to recruitment and examination programs for entry level employees and classification and pay ranges for identified job categories; establish higher compensation levels for geographic areas where there is difficulty in recruiting and retaining qualified employees; and exercise authority relating to the acquisition, operation, and maintenance of facilities and exercise authority relating to leasing, purchasing, or maintaining automated data processing equipment. The demonstration projects would last for up to six years.

The Comptroller General, the Director of OPM, and the Commissioner would each be required to evaluate the readiness of the Commissioner to assume permanent and full authority over personnel functions and issue reports to the House Ways and Means and the Senate Finance Committees by December 31, 1997 and December 31, 1999. Similar evaluations and reports are required from each of the Comptroller General, the Commissioner, and the Administrator of GSA on the readiness of the Commissioner to assume permanent and full authority over the property and equipment acquisition and management functions.

The number of positions which may be excepted from the competitive service because of the confidential or policy-determining character of such positions could not exceed the equivalent of five full-time positions.

Appropriations requests for staffing and personnel of the Administration would be based upon a comprehensive work force plan, as determined by the Commissioner, and are authorized to be made on a biennial basis. Appropriated contingency funds would be apportioned upon the occurrence of the stipulated contingency, as determined by the

Present Law	Proposed Change
	Commissioner and reported to each House of Congress. The Commissioner would create a Seal of Office for SSA, and judicial notice would be taken of it.
m. Transfers and transitional rules. - No provision.	m. Transfers and transitional rules. - Assets and personnel would be transferred from HHS to SSA, and all orders, rules, regulations, determinations, contracts, collective bargaining agreements (including ongoing negotiations), recognitions of labor organizations, and licenses in effect under the authority of the Secretary of HHS would continue under the authority of the independent agency until modified or terminated in accordance with law. HHS employees performing functions related to SSA on the date of enactment of this provision and on September 30, 1993, would be transferred to SSA. Employees of HHS who were not performing functions connected with SSA on the date of enactment, but who on September 30, 1993, were performing such functions may be transferred to SSA after consultation by the Commissioner with the Secretary of HHS.
n. Advisory Council. - An advisory council is appointed by the Secretary of HHS every four years for the purpose of reviewing the status of the social security and medicare programs.	n. Advisory Council. - There would be separate quadrennial advisory councils for social security and medicare.
o. Effective Date. -	o. Effective Date. - In general, the provision would take effect October 1, 1993.