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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–507

SENIOR CITIZENS' FREEDOM TO WORK ACT OF 2000

MARCH 1, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 5]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5) to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

79–006

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizens' Freedom to Work Act of 2000".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" each place it appears and inserting "retirement age (as defined in section 216(l))";

(3) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(4) in subsection (f)(3)—

(A) by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),"; and

(B) by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(5) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(6) in subsection (j)—

(A) in the heading, by striking "Age Seventy" and inserting "Retirement Age"; and

(B) by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding";

(3) in clause (ii), in the matter preceding subclause (I), by striking "corresponding" and all that follows through "individuals)" and inserting "exempt amount which is in effect with respect to months in the taxable year ending after 1993 and before 1995 with respect to individuals who have not attained retirement age (as defined in section 216(l))";

(4) in subclause (II) of clause (ii), by striking "2000" and all that follows and inserting "1992,"; and

(5) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF EXEMPT AMOUNT AFFECTING INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c), in the last sentence, by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) PROVISIONS RELATING TO EARNINGS TAKEN INTO ACCOUNT IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY OF BLIND INDIVIDUALS.—The second sentence of section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by striking "if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted" and inserting the following: "if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Senior Citizens' Freedom to Work Act of 2000 had not been enacted".

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments and repeals made by this Act shall apply with respect to taxable years ending after December 31, 1999.

(b) SPECIAL RULE APPLICABLE TO INDIVIDUALS WHO ATTAIN NORMAL RETIREMENT AGE DURING THE FIRST TAXABLE YEAR ENDING AFTER DECEMBER 31, 1999.—Sections 202 and 203 of the Social Security Act, as in effect immediately prior to the amendments and repeals made by this Act, shall apply to any individual who attains retirement age (as defined in section 216(l) of such Act) during the first taxable year ending after December 31, 1999 (and to any person receiving benefits under title II of the Social Security Act on the basis of the wages and self-employment income of such individual), but only with respect to earnings for so much of such taxable year as precedes the month in which such individual attains retirement age (as so defined).

I. INTRODUCTION

A. PURPOSE AND SUMMARY

The "Senior Citizens Freedom To Work Act of 2000" would eliminate the Social Security retirement earnings test for seniors who attain the full retirement age (currently age 65, rising to 67 in 2027). The purpose of the legislation is to remove work disincentives for seniors who reach full retirement and to improve the fairness of the Social Security program. The legislation would have a negligible effect on the long-term financial status of the Social Security Trust Funds.

B. BACKGROUND AND NEED FOR LEGISLATION

The Social Security program has included a "retirement earnings test" since its inception in 1935. The earnings test reduces Social Security benefits for beneficiaries who continue to work if their earnings exceed a specific threshold, known as the "earnings limit." The earnings limit applies only to earnings from wages and self-employment income; it does not apply to "unearned" income, such as pensions, savings and investments. The earnings test has been relaxed over time to reflect changes in the workforce but has not been eliminated.

Working seniors who lose benefits because of the earnings test receive a delayed retirement credit (DRC), which increases their monthly benefits in the future to help compensate them for the loss. On average, seniors should receive the same amount of lifetime benefits regardless of when they retire.

According to the Congressional Budget Office, 631,000 seniors between the ages of 65 and 69 will have some or all of their benefits reduced in 2000 because of the earnings test. Thousands more will deliberately reduce the amount they work to avoid a benefit reduc-

tion. The benefit reduction in 2000 will average approximately $8,000 per retiree affected by the earnings test.

After a lifetime of payroll tax contributions, workers have an earned right to their benefits, regardless of economic need. Withholding benefits from seniors simply because they choose to work beyond the full retirement age is unfair, and it discriminates against seniors who need to work to supplement their income.

Moreover, the earnings test imposes a risk because many seniors will not live long enough to recover all their lost benefits through the DRC. Lower-income workers and some minorities face the highest risk of losing benefits to which they are entitled because of their shorter life expectancies.

Not only is the earnings test unfair, but it adversely affects the economy by discouraging seniors from remaining in the workforce. After accounting for Federal income and payroll taxes, working seniors between the ages of 65 and 69 can face high marginal tax rates as a result of the earnings test. Discouraging work among seniors may have made sense during the Great Depression when unemployment was high, but it makes little sense in today's economic environment.

The retirement of the baby boomers and the aging of the workforce have serious implications for productivity, economic growth and future living standards. As seniors become an increasing share of the population, they should be given the appropriate opportunities and incentives to remain in the workforce, to share their skills and experience with younger workers and to contribute to growth in the economy.

Finally, repealing the earnings test will improve the personal and financial well-being of America's senior citizens. As seniors continue to enjoy increased longevity and better health, they should be allowed to work as long as they are willing to do so. Studies have shown that allowing seniors to remain productive in retirement has a positive impact on their health and self-esteem. Moreover, repealing the earnings test would allow seniors the freedom to work without penalty so they can supplement their Social Security benefits. This is particularly important to many lower- and moderate-income retirees who rely more heavily on earnings from work rather than savings and pensions.

C. Legislative History

On February 15, 2000, the Subcommittee on Social Security held a public hearing on improving Social Security work incentives, which focused on the effects of repealing the Social Security earnings test for working seniors who reach the full retirement age as provided in H.R. 5, which was introduced by Mr. Sam Johnson and Mr. Collin Peterson on March 1, 1999. The Subcommittee received testimony in support of repealing the earnings test from the Commissioner of Social Security as well as senior advocates, economists, academics, business representatives, and senior citizens. In addition, during the first session of the 106th Congress, the Subcommittee and the Full Committee on Ways and Means held numerous hearings on Social Security reform proposals that included provisions to eliminate the earnings test.

On February 16, 2000, the Subcommittee on Social Security ordered favorably reported to the full Committee H.R. 5, the Senior Citizens' Freedom to Work Act of 2000, as amended, by a unanimous voice vote, with a quorum present.

On February 29, 2000, the Full Committee on Ways and Means ordered favorably reported to the House H.R. 5, the Senior Citizens' Freedom to Work Act of 2000, as amended, by a unanimous voice vote, with a quorum present.

II. EXPLANATION OF PROVISIONS

SECTION 1. SHORT TITLE

The short title of the bill is the Senior Citizens' Freedom to Work Act of 2000.

SECTION 2. ELIMINATION OF THE EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE

Present law

Working seniors who reach the full retirement age (currently 65 in 2000, rising to 67 by 2027) receive a benefit reduction if their earnings from wages and self-employment income exceed a specific threshold, or "earnings limit." In 2000, the earnings limit for working seniors age 65 and older is $17,000. Social Security benefits are reduced by $1 for every $3 of earnings in excess of the limit. Legislation passed in 1996 will increase the earnings limit to $25,000 in 2001 and to $30,000 in 2002. Thereafter, the limit will increase with average wage growth in the economy. Seniors are exempt from the earnings test once they reach age 70. A separate earnings test applies to working seniors who retire before the full retirement age.[1] The earnings test only applies to the Old-Age and Survivors Insurance Program.

Explanation of provision

The proposal would exempt working seniors from the earnings test once they reach the full retirement age.

Reason for change

According to the Congressional Budget Office, 631,000 non-disabled beneficiaries age 65 through 69 lose some or all of their Social Security benefits as a result of the earnings test. Many more are negatively impacted because they deliberately hold their earnings below the limit to avoid the penalty. Withholding benefits from working seniors is inconsistent with the fact that workers are entitled to their Social Security benefits regardless of economic need. Moreover, the earnings test penalizes seniors who want or need to work during retirement to supplement their Social Security benefits. The penalty discourages many seniors from working as much as they otherwise would, thus reducing their personal and financial well-being. Discouraging work among seniors also has serious implications for productivity, economic growth and future living

[1] Working seniors who retire before the full retirement age lose $1 of Social Security benefits for every $2 of earnings in excess of the earnings limit. The limit is $10,080 in 2000. It increases annually with average wage growth.

standards. Given the impending retirement of the Baby Boom generation and the implications for economic growth, we need to take steps now to encourage older workers to remain in the work force. Eliminating the earnings test for seniors who reach the full retirement age would also reduce Social Security Administration administrative costs and reduce the number of inaccurate benefit payments each year. The Social Security Administration estimates that the cost of administering the earnings test for those age 65 through 69 is approximately $70 million annually.

[Section 3 of the legislation makes several technical and conforming amendments required by the repeal of the earnings limit.]

SECTION 4. ADDITIONAL CONFORMING AMENDMENTS

Present law

Seniors who reach the full retirement age and do not receive benefits (either because they don't file for benefits or because benefits are withheld under the earnings test) receive a delayed retirement credit (DRC) to partially compensate them for the loss. The DRC increases the worker's Social Security benefit for each month that benefits are fully withheld. The DRC is 6 percent per year for workers age 65 in 2000. It will increase by 0.5 percentage points every two years until reaching 8 percent for seniors reaching the full retirement age (then age 66) in 2009, at which point, the DRC will be "actuarially fair." In other words, on average, the DRC should fully compensate workers for benefits withheld under the earnings test.

The earnings test and the delayed retirement credit only apply to the Old-Age and Survivors Insurance program. The Social Security Act contains a separate earnings threshold, called the substantial gainful activity (SGA) level, which applies only to the Disability Insurance program. Workers with earnings above the SGA level are ineligible for disability benefits. In 2000, the SGA level for non-blind individuals with disabilities is $700 per month. This level is set by regulation. In 2000, the SGA level for individuals who are blind is $1,170 per month. This level increases annually with average wage growth in the economy as established in statute.

Explanation of the provision

The provision makes conforming changes to eliminate the DRC for working seniors who would have had benefits withheld under the earnings test if the legislation were not enacted. The DRC is retained for seniors who choose to delay benefit application beyond the full retirement age.

The provision makes several other conforming amendments relating to the SGA level for the blind and provisions made redundant by the repeal of the earnings test.

Reason for change

The DRC is repealed for seniors who have reached the full retirement age because they will receive their full Social Security benefits regardless of their earnings from work. As a result, there is no need to compensate seniors for lost benefits because they will no longer be penalized for working. Because of the interaction between

the earnings test and the DRC, the cost of repealing the earnings test is fully recovered over time. Consequently, repealing the earnings test has a negligible long-term impact on Social Security's financial solvency. In addition, there is no impact on the estimated date of the Trust Funds' depletion or the date when benefit outlays exceed income.

This provision ensures that the current law substantial gainful activity level for the blind is maintained and will continue to be wage-indexed in the future.

SECTION 5. EFFECTIVE DATE

Sections 2 through 4 (which lower the earnings test exempt age from 70 to the full retirement age and make conforming amendments) are effective for taxable years after December 31, 1999.

A special rule is provided for seniors who reach the full retirement age in 2000. The special rule retains the $17,000 earnings limit and the 33⅓ percent withholding rate for seniors who reach the full retirement age in 2000, ensuring that they will not be affected by the more stringent earnings test which applies to early retirees. Once the worker attains the full retirement age, the earnings test will no longer apply.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 5, as amended.

MOTION TO REPORT THE BILL

The bill, H.R. 5, as amended, was ordered favorably reported by a unanimous voice vote, with a quorum present.

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 5, as reported.

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

B. Statement Regarding New Budget Authority and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states the Committee bill results in no net increase or decrease in budget authority for direct spending programs relative to current law, and no new or increased tax expenditures.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office ("CBO"), the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 1, 2000.

Hon. Bill Archer,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5, the Senior Citizens' Freedom to Work Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathy Ruffing.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.R. 5—Senior Citizens' Freedom to Work Act of 2000

Summary: H.R. 5 would repeal the earnings test that reduces the Social Security benefits of some people between the program's normal retirement age (currently 65) and 69. Under H.R. 5, those individuals could draw their full Social Security benefits, regardless of their earnings.

CBO estimates that enacting H.R. 5 would increase direct spending by $3.9 billion in fiscal year 2000, by $19.8 billion over the 2000–2005 period, and by $22.8 billion over the 2000–2010 period. Administrative costs would rise by $35 million in 2000, but fall by $0.7 billion over the 2001–2010 period. Both the benefit payments and administrative expenses for Social Security are off-budget. The bill would have no pay-as-you-go impact because legislation affecting the Social Security trust funds is exempt from pay-as-you-go procedures. H.R. 5 would impose no mandates on state, local, or tribal governments or on the private-sector.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5 is shown in Table 1. The costs of this legislation fall within budget function 650 (Social Security).

Basis of estimate: Under current law, for beneficiaries between Social Security's normal retirement age (NRA), now 65, and 69, a dollar of benefits is withheld for every three dollars of earnings above a threshold. Under the Contract With America Advancement Act, that threshold is $17,000 in 2000; it will rise to $25,000 in 2001 and $30,000 in 2002, and climb with average wages thereafter. A stricter test applies to beneficiaries between age 62 (the so-called early retirement age, or ERA) and the NRA; recipients are exempt from the earnings test when they reach age 70.

TABLE 1.—ESTIMATED BUDGET EFFECTS OF H.R. 5

[By fiscal year, in billions of dollars]

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
DIRECT SPENDING											
Estimated Outlays: Benefit Payments	3.9	4.3	3.6	3.1	2.7	2.1	1.6	1.0	0.5	0.1	0.1
SPENDING SUBJECT TO APPROPRIATION ACTION											
Estimated Outlays: Administrative Costs	(1)	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1	−0.1
Memorandum:											
Exempt amount under current law (by calendar year, in dollars) [2]	17,000	25,000	30,000	31,200	32,400	33,480	34,560	35,880	37,200	38,520	39,840

[1] Less than $50 million.

[2] Through 2002, these are the amounts set in the Contract With America Advancement Act (Public Law 104–121). After 2002, they are indexed to overall wage increases.

Note.—Outlays represent extra benefits that would be paid from the Old-Age and Survivors Insurance Trust Fund, which is off-budget.

Direct spending

CBO estimates that repealing the earnings test for beneficiaries over the NRA, effective January 1, 2000, would lead to outlays of about $5 billion in that calendar year for additional Social Security benefits. Only three-quarters of that cost, $3.9 billion, would occur in fiscal year 2000 because the bill would affect payments for only nine months of that fiscal year.

CBO bases its estimate on data obtained from the Social Security Administration's (SSA's) Continuous Work History Sample. That source has consistently shown that approximately 2.4 million beneficiaries between the ages of 65 and 69 have earnings, although only a minority of them make enough to be affected by the earnings test. In calendar year 2000, CBO estimates that approximately 625,000 people would receive, on average, an extra benefit of $8,200 under H.R. 5. By 2002, that number would shrink to about 400,000 people, collecting on average an extra benefit of about $10,000. After 2002, an estimated 350,000 to 400,000 workers each year would have at least some benefits withheld under current law and therefore would be affected by the bill.

The cost of repeal would decline over time for several reasons. First, the amount of exempt earnings is scheduled to rise steeply in 2001 and 2002, and thus fewer people would be subject to the test under current law. Second, the NRA will climb gradually from 65 to 66 in the next decade, further shrinking the number of people affected. Third, the costs will gradually be offset by savings in the delayed retirement credit (DRC), which boosts subsequent benefits for anyone who defers receiving payments for any months after reaching the NRA but before age 70. Under current law, the DRC will eventually climb to 8 percent of benefits for each full year deferred. CBO assumes that most people affected by repeal of the earnings test will apply for benefits at the NRA, thus forfeiting their eventual entitlement to the DRC. Although CBO estimates that H.R. 5 would add to government outlays in each of the first 10 years, actuaries at the Social Security Administration (SSA) judge that repeal would have only a negligible effect on benefits

over a 75-year period, because the extra payments will be almost exactly offset by savings in the DRC.

In its estimates, CBO does not assume that repeal of the earnings test would substantially affect the labor force participation or earnings of people between the NRA and age 69. In theory, the effect could operate in either direction. Older people who now hold their earnings just below the threshold might work more. But on the other hand, people with high earnings might work less, because they could enjoy the same standard of living by combining a Social Security benefit with reduced earnings. Empirical evidence suggests that, in the past, the earnings test has slightly dampened work by people aged 65 through 69. (A recent study suggests the effect on work hours could be about a 5 percent reduction.) Even the modest effect suggested by that research would fade under current law, because—as the threshold climbs to $30,000—it will affect fewer people's decisions.

For purposes of its estimate, CBO assumes enactment in the spring of 2000. Because the bill would be retroactive to January 1, 2000, SSA would have to compute and refund benefits withheld since that date. If enactment occurs later in the year, the processing time could push the fiscal year 2000 costs of $3.9 billion into 2001. That results would have no effect, however, on the aggregate costs of the bill.

Spending subject to appropriation

H.R. 5 would also affect SSA's administrative costs, which are funded by an annual appropriation. Computing and refunding retroactive benefits for calendar year 2000 would cost approximately $35 million. In later years, however, SSA would save about $65 million annually because it would no longer have to administer the complex earnings test for people over the NRA.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Acts sets up pay-as-you-go procedures for legislation that affects direct spending or receipts. However, provisions that affect the Old-Age and Survivors Insurance and Disability Insurance trust funds are specifically exempt from these procedures. Therefore, H.R. 5 would have no pay-as-you-go impact.

Intergovernmental and private-sector impact: H.R. 5 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Kathy Ruffing; Costs to State and Local Governments: Leo Lex; Costs to the Private Sector: Ralph Smith.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

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

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight re-

view. On February 15, 2000, the Subcommittee on Social Security held a public hearing on "Improving Social Security Work Incentives" which discussed repealing the Social Security earnings test for working seniors who reach the full retirement age as provided in H.R. 5, the Senior Citizens' Freedom to Work Act of 2000.

B. Summary of Findings and Recommendations of the Committee on Government Reform

With respect to clause 3(c)(4) of rule XII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform with respect to the provisions contained in the bill.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

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

SOCIAL SECURITY ACT

* * * * * * *

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

* * * * * * *

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old Age Insurance Benefits

SEC. 202. (a) * * *

* * * * * * *

Increase in Old-Age Insurance Benefit Amounts on Account of Delayed Retirement

(w)(1) * * *

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) which have elapsed after the month before the month in which such individual attained retirement age (as defined in section 216(l)) or (if later) December 1970 and prior to the month in which such individual attained age 70, and

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 214(a)),

(ii) such individual [either] was not entitled to an old-age insurance benefit [or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit], and

(iii) such individual was not subject to a penalty imposed under section 1129A.

* * * * * * *

REDUCTION OF INSURANCE BENEFITS

SEC. 203. (a) * * *

* * * * * * *

Deductions on Account of Noncovered Work Outside the United States or Failure to Have Child in Care

(c) Deductions, in such amounts and at such time or times as the Commissioner of Social Security shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

(1) in which such individual is under [the age of seventy] *retirement age (as defined in section 216(l))* and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States;

* * * * * * *

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; [nor shall any deduction be made under this subsection from any widow's insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained retirement age (as defined in section 216(l)) (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained retirement age (as defined in section 216(l)) (but only if he became so entitled prior to attaining age 60).] *nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving*

divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.

* * * * * * *

Deductions From Dependents' Benefits on Account of Noncovered Work Outside the United States by Old Age Insurance Beneficiary

(d)(1)(A) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self employment income of an individual entitled to old age insurance benefits, to which a wife, divorced wife, husband, divorced husband, or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which such individual is under [the age of seventy] *retirement age (as defined in section 216(l))* and for more than forty five hours of which such individual engaged in noncovered remunerative activity outside the United States.

* * * * * * *

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's or father's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's or father's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's or father's insurance benefits is married to an individual under [the age of seventy] *retirement age (as defined in section 216(l))* who is entitled to old-age insurance benefits and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States.

* * * * * * *

Months to Which Earnings Are Charged

(f) For purposes of subsection (b)—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons (excluding divorced spouses referred to in subsection (b)(2)) are entitled for such month under section 202 on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all such other persons are entitled for such month under section 202 on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 202(a) and other persons (excluding divorced spouses referred to in subsection (b)(2)) are entitled to benefits under section 202(b), (c), or (d) on the basis of the wages and self-employment income

of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 202(s), no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this title, (B) in which such individual **[**was age seventy or over**]** *was at or above retirement age (as defined in section 216(l))*, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, **[**(D) for which such individual is entitled to widow's insurance benefits and has not attained retirement age (as defined in section 216(l)) (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained retirement age (as defined in section 216(l)) (but only if he became so entitled prior to attaining age 60),**]** *(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,* (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), if such month is in the taxable year in which occurs the first month after December 1977 that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8), or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202(b) or (c) (but only by reason of having a child in his or her care within the meaning of paragraph (1)(B) of subsection (b) or (c), as may be applicable) or under section 202(d) or (g), if such month is in a year in which such entitlement ends for a reason other than the death of such individual, and such individual is not entitled to any benefits under this title for the month following the month during which such entitlement under section 202(b), (d), or (g) ended.

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(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be **[**33⅓ percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) in the case of an individual who has attained (or, but for the individual's death, would have attained) retirement age (as defined in section 216(l)) before the close of such taxable year,

or 50 percent of his earnings for such year in excess of such product in the case of any other individual,] *50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),* multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains [age 70] *retirement age (as defined in section 216(l))*, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Commissioner of Social Security). For purposes of the preceding sentence, notwithstanding section 211(e), the number of months in the taxable year in which an individual dies shall be 12. The excess earnings as derived under the first sentence of this paragraph, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

* * * * * * *

(8)(A) Whenever the Commissioner of Social Security pursuant to section 215(i) increases benefits effective with the month of December following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs [the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable] *a new exempt amount which shall be applicable* (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) [Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be whichever] *The exempt amount which is applicable for each month of a particular taxable year shall be whichever* of the following is the larger—

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

(ii) the product of the [corresponding exempt amount which is in effect with respect to months in the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993–and before 1995 (with respect to other individuals)] *exempt amount which is in effect with respect to months in the taxable year ending after 1993 and before 1995 with respect to individuals who have not attained retirement age (as defined in section 216(l))*, and the ratio of—

(I) * * *

(II) the national average wage index (as so defined) for [2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)] *1992*,

with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

Whenever the Commissioner of Social Security determines that [an exempt amount] *the exempt amount* is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

* * * * * * *

[(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

[(i) for each month of any taxable year ending after 1995 and before 1997, $1,041.66⅔,

[(ii) for each month of any taxable year ending after 1996 and before 1998, $1,125.00,

[(iii) for each month of any taxable year ending after 1997 and before 1999, $1,208.33⅓,

[(iv) for each month of any taxable year ending after 1998 and before 2000, $1,291.66⅔,

[(v) for each month of any taxable year ending after 1999 and before 2001, $1,416.66⅔,

[(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓,

[(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.]

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Report of Earnings to Commissioner of Social Security

(h)(1)(A) If an individual is entitled to any monthly insurance benefit under section 202 during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f), in excess of the product of the applicable exempt amount as determined under subsection (f)(8) times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Commissioner of Social Security of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Commissioner of Social Security may by regulations prescribe. Such report need not be made for any taxable year—

(i) beginning with or after the month in which such individual attained [age 70] *retirement age (as defined in section 216(l))*, or

(ii) if benefit payments for all months (in such taxable year) in which such individual is under [age 70] *retirement age (as defined in section 216(l))* have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Commissioner of Social Security may grant a reasonable extension of time for making the report of earnings required in this paragraph if the Commissioner finds that there is valid reason for a delay, but in no case may the period be extended more than four months.

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Attainment of [Age Seventy] *Retirement Age*

(j) For the purposes of this section, an individual shall be considered as [seventy years of age] *having attained retirement age (as defined in section 216(l))* during the entire month in which he attains such age.

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DISABILITY INSURANCE BENEFIT PAYMENTS

Disability Insurance Benefits

SEC. 223. (a) * * *

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Definition of Disability

(d)(1) * * *

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(4)(A) The Commissioner of Social Security shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, [if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted] *if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work*

Act of 1996 and by the Senior Citizens' Freedom to Work Act of 2000 had not been enacted. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222(c), be found not to be disabled. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amount to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe.

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