

Public Law 97-123
97th Congress

An Act

To amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act.

Dec. 29, 1981
[H.R. 4331]*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*Social Security
Act,
amendment.

INTERFUND BORROWING

SECTION 1. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 401.

"(1)(1) If at any time prior to January 1983 the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from the other such Trust Fund, or from the Federal Hospital Insurance Trust Fund established under section 1817, for transfer to and deposit in the Trust Fund whose need for financing is involved.

42 USC 1395i.

"(2) In any case where a loan has been made to a Trust Fund under paragraph (1), there shall be transferred from time to time, from the borrowing Trust Fund to the lending Trust Fund, interest with respect to the unrepaid balance of such loan at a rate equal to the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (d).

Interest.

"(3) If in any month after a loan has been made to a Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate.

Repayments.

"(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection."

Report to
Congress.

(b) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

42 USC 1395i.

"(j)(1) If at any time prior to January 1983 the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Hospital Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from either the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund for transfer to and deposit in the Federal Hospital Insurance Trust Fund.

"(2) In any case where a loan has been made to the Federal Hospital Insurance Trust Fund under paragraph (1), there shall be transferred from time to time, from such Trust Fund to the lending Trust Fund, interest with respect to the unrepaid balance of such loan at a rate equal to the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (c).

Interest

Repayments.

"(3) If in any month after a loan has been made to the Federal Hospital Insurance Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate.

Report to Congress.

"(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection."

Effective date.
42 USC 401 note.

(c) The amendments made by this section shall be effective on the date of the enactment of this Act.

CONTINUATION OF MINIMUM BENEFITS FOR EXISTING BENEFICIARIES

Ante, p. 830.

SEC. 2. (a)(1) Section 215(a)(5) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended—

(A) in the first sentence, by striking out “, and the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)”; and

(B) in the last sentence, by striking out “, modified by the application of paragraph (6),”.

(2) Section 215(a)(6)(A) of the Social Security Act (as added by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out “The table of benefits” and all that follows down through “shall be extended” and inserting in lieu thereof the following “In applying the table of benefits in effect in December 1978 under this section for purposes of the last sentence of paragraph (4), such table, revised as provided by subsection (i), as applicable, shall be extended”.

(b) Section 215(f)(7) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended—

(1) by striking out the period at the end of the second sentence and inserting in lieu thereof “, and (effective January 1982) the recomputation shall be modified by the application of subsection (a)(6) where applicable.”; and

(2) by striking out the last sentence.

(c) Section 215(i)(2)(A)(iii) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by inserting after “this title” the following: “and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I) in the case of an individual to whom that subsection (as in effect in December 1981) applied, subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph (as then in effect)”.

(d) Section 215(i)(4) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by striking out “, modified by the application of subsection (a)(6),” each place it appears.

Ante, p. 830.

(e) Section 202(q) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended—

(1) in paragraph (4), by striking out “changed” and “change” each place they appear and inserting in lieu thereof “increased” and “increase”, respectively; and

(2) in paragraph (10), by striking out “changed”, “change”, and “changes” each place they appear and inserting in lieu thereof “increased”, “increase”, and “increases”, respectively.

(f) Section 203(a)(8) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by striking out “”, modified by the application of section 215(a)(6).”,

Ante, p. 830.

(g) Section 217(b)(1) of the Social Security Act (as amended by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is further amended by striking out “”, and as modified by the application of section 215(a)(6).”,

(h) Section 1622 of the Social Security Act (as added by section 2201 of the Omnibus Budget Reconciliation Act of 1981) is repealed.

Repeal.

Ante, p. 830.

(i) Subsection (e) of section 2201 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

42 USC 415 note.

Ante, p. 830.

(j)(1) Subsection (h) of section 2201 of the Omnibus Budget Reconciliation Act of 1981 is repealed, effective September 1, 1981.

42 USC 1382

note.

42 USC 415 note.

(2) Except as provided in paragraphs (3) and (4), the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981 (other than subsection (f) thereof), together with the amendments made by the preceding subsections of this section, shall apply with respect to benefits for months after December 1981; and the amendment made by subsection (f) of such section 2201 shall apply with respect to deaths occurring after December 1981.

(3) Such amendments shall not apply—

(A) in the case of an old-age insurance benefit, if the individual who is entitled to such benefit first became eligible (as defined in section 215(a)(3)(B) of the Social Security Act) for such benefit before January 1982,

42 USC 415.

(B) in the case of a disability insurance benefit, if the individual who is entitled to such benefit first became eligible (as so defined) for such benefit before January 1982, or attained age sixty-two before January 1982,

(C) in the case of a wife's or husband's insurance benefit, or a child's insurance benefit based on the wages and self-employment income of a living individual, if the individual on whose wages and self-employment income such benefit is based is entitled to an old-age or disability insurance benefit with respect to which such amendments do not apply, or

(D) in the case of a survivors insurance benefit, if the individual on whose wages and self-employment income such benefit is based died before January 1982, or dies in or after January 1982 and at the time of his death is eligible (as so defined) for an old-age or disability insurance benefit with respect to which such amendments do not apply.

(4) In the case of an individual who is a member of a religious order (within the meaning of section 3121(r)(2) of the Internal Revenue Code of 1954), or an autonomous subdivision of such order, whose members are required to take a vow of poverty, and which order or subdivision elected coverage under title II of the Social Security Act before the date of the enactment of this Act, or who would be such a member except that such individual is considered retired because of old age or total disability, paragraphs (2) and (3) shall apply, except that each reference therein to “December 1981” or “January 1982” shall be considered a reference to “December 1991” or “January 1992”, respectively.

26 USC 3121.

42 USC 401.

EXTENSION OF COVERAGE TO FIRST SIX MONTHS OF SICK PAY

42 USC 409.

SEC. 3. (a) Clause (2) of section 209(b) of the Social Security Act is amended by inserting immediately after "sickness or accident disability" the following: "(but, in the case of payments made to an employee or any of his dependents, this clause shall exclude from the term 'wages' only payments which are received under a workmen's compensation law)".

26 USC 3121.

26 USC 3126.

(b)(1) Subparagraph (B) of section 3121(a)(2) of the Internal Revenue Code of 1954 (defining wages for purposes of the Federal Insurance Contributions Act) is amended to read as follows:

"(B) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term 'wages' only payments which are received under a workmen's compensation law), or".

(2) Section 3121(a) of such Code is further amended by adding at the end thereof (after and below paragraph (18)) the following new sentence:

"Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (B) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages."

26 USC 3201 *et*
seq.

26 USC 3231.

26 USC 3233.

(c) Subsection (e) of section 3231 of such Code (defining compensation for purposes of the Railroad Retirement Tax Act) is amended by adding at the end thereof the following new paragraph:

"(4)(A) For purposes of applying sections 3201(b) and 3221(b) (and so much of section 3211(a) as relates to the rates of the taxes imposed by sections 3101 and 3111), in the case of payments made to an employee or any of his dependents on account of sickness or accident disability, clause (i) of the second sentence of paragraph (1) shall exclude from the term 'compensation' only—

"(i) payments which are received under a workmen's compensation law, and

"(ii) benefits received under the Railroad Retirement Act of 1974.

45 USC 231t.

"(B) Notwithstanding any other provision of law, for purposes of the sections specified in subparagraph (A), the term 'compensation' shall include benefits paid under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness, except to the extent that such sickness (as determined in accordance with standards prescribed by the Railroad Retirement Board) is the result of on-the-job injury.

45 USC 352.

"(C) Under regulations prescribed by the Secretary, subparagraphs (A) and (B) shall not apply to payments made after the expiration of a 6-month period comparable to the 6-month period described in section 3121(a)(4).

"(D) Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in compensation solely by reason of subparagraph (A) or (B) shall be treated for purposes of this chapter as the employer with respect to such compensation."

26 USC 3121
note.

26 USC 3121.

Supra.

(d)(1) The regulations prescribed under the last sentence of section 3121(a) of the Internal Revenue Code of 1954, and the regulations prescribed under subparagraph (D) of section 3231(e)(4) of such Code, shall provide procedures under which, if (with respect to any employee) the third party promptly—

- (A) withholds the employee portion of the taxes involved,
- (B) deposits such portion under section 6302 of such Code, and
- (C) notifies the employer of the amount of the wages or compensation involved,

26 USC 6302.

the employer (and not the third party) shall be liable for the employer portion of the taxes involved and for meeting the requirements of section 6051 of such Code (relating to receipts for employees) with respects to the wages or compensation involved.

(2) For purposes of paragraph (1)—

Definitions.

(A) the term “employer” means the employer for whom services are normally rendered,

(B) the term “taxes involved” means, in the case of any employee, the taxes under chapters 21 and 22 which are payable solely by reason of the parenthetical matter contained in subparagraph (B) of section 3121(a)(2) of such Code, or solely by reason of paragraph (4) of section 3231(e) of such Code, and

26 USC 3101 *et seq.*, 3201 *et seq.*

(C) the term “wages or compensation involved” means, in the case of any employee, wages or compensation with respect to which taxes described in subparagraph (B) are imposed.

(e) For purposes of applying section 209 of the Social Security Act, section 3121(a) of the Internal Revenue Code of 1954, and section 3231(e) of such Code with respect to the parenthetical matter contained in section 209(b)(2) of the Social Security Act or section 3121(a)(2)(B) of the Internal Revenue Code of 1954, or with respect to section 3231(e)(4) of such Code (as the case may be), payments under a State temporary disability law shall be treated as remuneration for service.

26 USC 3121 note.
42 USC 409.
26 USC 3121.

(f) Notwithstanding any other provision of law, no penalties or interest shall be assessed on account of any failure to make timely payment of taxes, imposed by section 3101, 3111, 3201(b), 3211, or 3221(b) of the Internal Revenue Code of 1954 with respect to payments made for the period beginning January 1, 1982, and ending June 30, 1982, to the extent that such taxes are attributable to this section (or the amendments made by this section) and that such failure is due to reasonable cause and not to willful neglect.

26 USC 3101 note.

(g)(1) Except as provided in paragraph (2), this section (and the amendments made by this section) shall apply to remuneration paid after December 31, 1981.

26 USC 3101, 3111, 3201, 3211, 3221.

(2) This section (and the amendments made by this section) shall not apply with respect to any payment made by a third party to an employee pursuant to a contractual relationship of an employer with such third party entered into before December 14, 1981, if—

26 USC 3121 note.

(A) coverage by such third party for the group in which such employee falls ceases before March 1, 1982, and

(B) no payment by such third party is made to such employee under such relationship after February 28, 1982.

PENALTIES FOR MISUSE OF SOCIAL SECURITY NUMBERS

SEC. 4. (a) Section 208(g) of the Social Security Act is amended—

42 USC 408.

(1) by inserting “or for the purpose of obtaining anything of value from any person,” before “or for any other purpose” in the matter preceding paragraph (1); and

(2) by adding after paragraph (2) the following new paragraph:

“(3) knowingly alters a social security card issued by the Secretary, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social

security card or counterfeit social security card with intent to sell or alter it; or”.

42 USC 408.

(b) Section 208 of such Act is further amended by striking out “shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both” in the matter following subsection (h) and inserting in lieu thereof “shall be guilty of a felony and upon conviction thereof shall be fined not more than \$5,000 or imprisoned for not more than five years, or both”.

Effective date.
42 USC 408 note.

(c) The amendments made by subsections (a) and (b) shall be effective with respect to violations committed after the date of the enactment of this Act.

STATUTORY DEADLINE FOR IMPLEMENTING AFDC HOME HEALTH AIDE DEMONSTRATION PROJECTS

42 USC 632a.
Ante, p. 802.

SEC. 5. The last sentence of subsection (c)(2) of section 966 of the Omnibus Reconciliation Act of 1980 (as added by section 2156 of the Omnibus Budget Reconciliation Act of 1981) is amended by inserting “with at least seven States” after “agreements”.

INFORMATION WITH RESPECT TO PRISONERS

42 USC 423.

SEC. 6. Section 223(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

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

REPORT TO CONGRESS

SEC. 7. The Secretary of Health and Human Services shall report to the Congress within ninety days after the date of the enactment of this Act with respect to the actions being taken to prevent payments from being made under title II of the Social Security Act to deceased individuals, including to the extent possible the use of the death records available under the medicare program to screen the cash benefit rolls for such deceased individuals.

42 USC 401.

Approved December 29, 1981.

LEGISLATIVE HISTORY—H.R. 4331:

HOUSE REPORT No. 97-409 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 127 (1981):

July 31, considered and passed House.

July 31, Oct. 14, 15, considered and passed Senate, amended.

Dec. 15, Senate agreed to conference report.

Dec. 16, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 17, No. 53 (1981):

Dec. 29, Presidential statement.