

SOCIAL SECURITY PROTECTION ACT OF 2004

H.R. 743

**PUBLIC LAW 108-203
108TH CONGRESS**

REPORTS, BILLS, AND ACT

SOCIAL SECURITY ADMINISTRATION

SOCIAL SECURITY PROTECTION ACT OF 2004

H.R. 743

**PUBLIC LAW 108-203
108TH CONGRESS**

REPORTS, BILLS, AND ACT

SOCIAL SECURITY ADMINISTRATION

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

PREFACE

This compilation contains historical documents pertaining to P.L. 108-203, the “Social Security Protection Act of 2004.” This book contains a chronological compilation of documents pertinent to the legislative history of the public law.

Pertinent documents include:

- Differing versions of the bill
- Committee Reports
- Excerpts from the Congressional Record
- The Public Law
- Press Releases
- Legislative Bulletins

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

TABLE OF CONTENTS

SOCIAL SECURITY PROTECTION ACT OF 2004

I. House Action on H.R. 743

A. Reported to House

1. Bill Introduced--Referred to House Ways and Means—February 12, 2003
2. House Debate and Vote on H.R. 743—Congressional Record—March 5, 2003
3. Committee Consideration and Mark-up Report—March 13, 2003
4. House Report No. 108-46—March 24, 2003
5. House Passage of H.R. 743—Congressional Record—April 2, 2003

II. Senate Action on H.R. 743

- A. Received in the Senate, read twice and referred to the Committee on Finance—April 3, 2003
- B. Committee Report No. 108-176—October 29, 2003
- C. Senate Debate and Vote on H.R. 743—December 9, 2003
- D. Senate Passed Bill—December 9, 2003

III. House Action on Senate Amended H.R. 743

- A. House Debate and Vote on H.R. 743—Congressional Record—February 11, 2004
- B. House Passed Senate-Amended Bill—February 11, 2004

IV. Public Law

- A. Public Law 108-203--108th Congress—March 2, 2004

APPENDIX

- A. Congressional Documents—2003 through 2004
1. CRS Report for Congress
March 13, 2003
 2. Congressional Budget Office Cost Estimate
February 24, 2004
 3. Senate Finance Committee Press Release
December 9, 2003
 4. House Committee on Ways and Means Press Release
February 11, 2004
 5. Senate Finance Committee Press Release
March 3, 2004
- B. Administration Documents—2003 through 2004
- H.R. 743
1. Legislative Bulletin No. 108-2
March 17, 2003
 2. Legislative Bulletin No. 108-5
April 7, 2003
 3. Legislative Bulletin No. 108-10
September 22, 2003
 4. Legislative Bulletin No. 108-11
November 14, 2003
 5. Legislative Bulletin No. 108-16
December 15, 2003
 6. Legislative Bulletin No. 108-17
February 11, 2004
 7. Legislative Bulletin No. 108-18
March 4, 2004

H.R. 4070

8. Legislative Bulletin No. 107-16
April 26, 2002
9. Legislative Bulletin No. 107-24
June 28, 2002
10. Legislative Bulletin No. 107-31
November 22, 2002

Union Calendar No. 28

108TH CONGRESS
1ST SESSION

H. R. 743

[Report No. 108-46]

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2003

Mr. SHAW (for himself, Mr. MATSUI, Mr. COLLINS, Mr. POMEROY, Mr. LEWIS of Kentucky, Mr. BECERRA, Mr. RYAN of Wisconsin, Mrs. JONES of Ohio, Mr. RANGEL, Mr. FOLEY, Mr. BALLENGER, Mr. FLETCHER, Ms. HARRIS, Mrs. NORTHUP, and Mr. WHITFIELD) introduced the following bill; which was referred to the Committee on Ways and Means

MARCH 24, 2003

Additional sponsors: Mr. HULSHOF, Mr. HAYWORTH, Mr. McNULTY, Mr. ANDREWS, Mr. ROSS, Mr. MARSHALL, Ms. CARSON of Indiana, Mr. CASE, Mr. SMITH of New Jersey, Mr. ALLEN, Mr. BRADLEY of New Hampshire, Mr. ROTHMAN, Mr. ROYCE, Mr. MARIO DIAZ-BALART of Florida, Mr. MCCOTTER, Mr. CARDIN, and Mr. PETERSON of Minnesota

MARCH 24, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 12, 2003]

A BILL

To amend the Social Security Act and the Internal Revenue

Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

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

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “So-*
 5 *cial Security Protection Act of 2003”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents is as*
 7 *follows:*

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

- Sec. 205. Refusal to recognize certain individuals as claimant representatives.*
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.*
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.*
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.*
- Sec. 209. Authority for judicial orders of restitution.*

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.*
- Sec. 302. Extension of attorney fee payment system to title XVI claims.*

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.*
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.*
- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.*
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.*
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.*

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.*
- Sec. 412. Nonpayment of benefits upon removal from the United States.*
- Sec. 413. Reinstatement of certain reporting requirements.*
- Sec. 414. Clarification of definitions regarding certain survivor benefits.*
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.*
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.*
- Sec. 417. Compensation for the Social Security Advisory Board.*
- Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.*

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.*
- Sec. 422. Technical correction relating to retirement benefits of ministers.*
- Sec. 423. Technical corrections relating to domestic employment.*
- Sec. 424. Technical corrections of outdated references.*
- Sec. 425. Technical correction respecting self-employment income in community property States.*

1 **TITLE I—PROTECTION OF**
 2 **BENEFICIARIES**

3 **Subtitle A—Representative Payees**

4 **SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY**
 5 **ORGANIZATIONAL REPRESENTATIVE PAYEES.**

6 (a) *TITLE II AMENDMENTS.—*

7 (1) *REISSUANCE OF BENEFITS.—Section*
 8 205(j)(5) *of the Social Security Act (42*
 9 *U.S.C. 405(j)(5)) is amended by inserting after the*
 10 *first sentence the following new sentences: “In any*
 11 *case in which a representative payee that—*

12 *“(A) is not an individual (regardless of whether*
 13 *it is a ‘qualified organization’ within the meaning of*
 14 *paragraph (4)(B)); or*

15 *“(B) is an individual who, for any month dur-*
 16 *ing a period when misuse occurs, serves 15 or more*
 17 *individuals who are beneficiaries under this title, title*
 18 *VIII, title XVI, or any combination of such titles;*
 19 *misuses all or part of an individual’s benefit paid to such*
 20 *representative payee, the Commissioner of Social Security*
 21 *shall certify for payment to the beneficiary or the bene-*
 22 *ficiary’s alternative representative payee an amount equal*
 23 *to the amount of such benefit so misused. The provisions*
 24 *of this paragraph are subject to the limitations of para-*
 25 *graph (7)(B).”.*

1 (2) *MISUSE OF BENEFITS DEFINED.*—Section
2 205(j) of such Act (42 U.S.C. 405(j)) is amended by
3 adding at the end the following new paragraph:

4 “(8) For purposes of this subsection, misuse of benefits
5 by a representative payee occurs in any case in which the
6 representative payee receives payment under this title for
7 the use and benefit of another person and converts such pay-
8 ment, or any part thereof, to a use other than for the use
9 and benefit of such other person. The Commissioner of So-
10 cial Security may prescribe by regulation the meaning of
11 the term ‘use and benefit’ for purposes of this paragraph.”.

12 (b) *TITLE VIII AMENDMENTS.*—

13 (1) *REISSUANCE OF BENEFITS.*—Section 807(i)
14 of the Social Security Act (42 U.S.C. 1007(i)) (as
15 amended by section 209(b)(1) of this Act) is amended
16 further by inserting after the first sentence the fol-
17 lowing new sentences: “In any case in which a rep-
18 resentative payee that—

19 “(A) is not an individual; or

20 “(B) is an individual who, for any month
21 during a period when misuse occurs, serves 15 or
22 more individuals who are beneficiaries under
23 this title, title II, title XVI, or any combination
24 of such titles;

1 *misuses all or part of an individual's benefit paid to*
2 *such representative payee, the Commissioner of Social*
3 *Security shall pay to the beneficiary or the bene-*
4 *ficiary's alternative representative payee an amount*
5 *equal to the amount of such benefit so misused. The*
6 *provisions of this paragraph are subject to the limita-*
7 *tions of subsection (l)(2)."*

8 (2) *MISUSE OF BENEFITS DEFINED.*—Section
9 *807 of such Act (42 U.S.C. 1007) is amended by add-*
10 *ing at the end the following new subsection:*

11 “(j) *MISUSE OF BENEFITS.*—For purposes of this title,
12 *misuse of benefits by a representative payee occurs in any*
13 *case in which the representative payee receives payment*
14 *under this title for the use and benefit of another person*
15 *under this title and converts such payment, or any part*
16 *thereof, to a use other than for the use and benefit of such*
17 *person. The Commissioner of Social Security may prescribe*
18 *by regulation the meaning of the term ‘use and benefit’ for*
19 *purposes of this subsection.”*

20 (3) *TECHNICAL AMENDMENT.*—Section 807(a) of
21 *such Act (42 U.S.C. 1007(a)) is amended, in the first*
22 *sentence, by striking “for his or her benefit” and in-*
23 *serting “for his or her use and benefit”.*

24 (c) *TITLE XVI AMENDMENTS.*—

1 (1) *REISSUANCE OF BENEFITS.*—Section
2 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E))
3 is amended by inserting after the first sentence the
4 following new sentences: “In any case in which a rep-
5 resentative payee that—

6 “(i) is not an individual (regardless of whether
7 it is a ‘qualified organization’ within the meaning of
8 subparagraph (D)(ii)); or

9 “(ii) is an individual who, for any month dur-
10 ing a period when misuse occurs, serves 15 or more
11 individuals who are beneficiaries under this title, title
12 II, title VIII, or any combination of such titles;
13 misuses all or part of an individual’s benefit paid to the
14 representative payee, the Commissioner of Social Security
15 shall pay to the beneficiary or the beneficiary’s alternative
16 representative payee an amount equal to the amount of the
17 benefit so misused. The provisions of this subparagraph are
18 subject to the limitations of subparagraph (H)(ii).”.

19 (2) *EXCLUSION OF REISSUED BENEFITS FROM*
20 *RESOURCES.*—Section 1613(a) of such Act (42
21 U.S.C. 1382b(a)) is amended—

22 (A) in paragraph (12), by striking “and”
23 at the end;

24 (B) in paragraph (13), by striking the pe-
25 riod and inserting “; and”; and

1 (C) by inserting after paragraph (13) the
2 following new paragraph:

3 “(14) for the 9-month period beginning after the
4 month in which received, any amount received by
5 such individual (or spouse) or any other person whose
6 income is deemed to be included in such individual’s
7 (or spouse’s) income for purposes of this title as res-
8 titution for benefits under this title, title II, or title
9 VIII that a representative payee of such individual
10 (or spouse) or such other person under section 205(j),
11 807, or 1631(a)(2) has misused.”.

12 (3) MISUSE OF BENEFITS DEFINED.—Section
13 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A))
14 is amended by adding at the end the following new
15 clause:

16 “(iv) For purposes of this paragraph, misuse of bene-
17 fits by a representative payee occurs in any case in which
18 the representative payee receives payment under this title
19 for the use and benefit of another person and converts such
20 payment, or any part thereof, to a use other than for the
21 use and benefit of such other person. The Commissioner of
22 Social Security may prescribe by regulation the meaning
23 of the term ‘use and benefit’ for purposes of this clause.”.

24 (d) EFFECTIVE DATE.—The amendments made by this
25 section shall apply to any case of benefit misuse by a rep-

1 *representative payee with respect to which the Commissioner*
2 *makes the determination of misuse on or after January 1,*
3 *1995.*

4 **SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.**

5 *(a) CERTIFICATION OF BONDING AND LICENSING RE-*
6 *QUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL*
7 *REPRESENTATIVE PAYEES.—*

8 *(1) TITLE II AMENDMENTS.—Section 205(j) of*
9 *the Social Security Act (42 U.S.C. 405(j)) is amend-*
10 *ed—*

11 *(A) in paragraph (2)(C)(v), by striking “a*
12 *community-based nonprofit social service agency*
13 *licensed or bonded by the State” in subclause (I)*
14 *and inserting “a certified community-based non-*
15 *profit social service agency (as defined in para-*
16 *graph (9))”;*

17 *(B) in paragraph (3)(F), by striking “com-*
18 *munity-based nonprofit social service agencies”*
19 *and inserting “certified community-based non-*
20 *profit social service agencies (as defined in para-*
21 *graph (9))”;*

22 *(C) in paragraph (4)(B), by striking “any*
23 *community-based nonprofit social service agency*
24 *which is bonded or licensed in each State in*
25 *which it serves as a representative payee” and*

1 inserting “any certified community-based non-
2 profit social service agency (as defined in para-
3 graph (9))”; and

4 (D) by adding after paragraph (8) (as
5 added by section 101(a)(2) of this Act) the fol-
6 lowing new paragraph:

7 “(9) For purposes of this subsection, the term ‘certified
8 community-based nonprofit social service agency’ means a
9 community-based nonprofit social service agency which is
10 in compliance with requirements, under regulations which
11 shall be prescribed by the Commissioner, for annual certifi-
12 cation to the Commissioner that it is bonded in accordance
13 with requirements specified by the Commissioner and that
14 it is licensed in each State in which it serves as a represent-
15 ative payee (if licensing is available in such State) in ac-
16 cordance with requirements specified by the Commissioner.
17 Any such annual certification shall include a copy of any
18 independent audit on such agency which may have been
19 performed since the previous certification.”.

20 (2) TITLE XVI AMENDMENTS.—Section
21 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
22 amended—

23 (A) in subparagraph (B)(vii), by striking
24 “a community-based nonprofit social service
25 agency licensed or bonded by the State” in sub-

1 clause (I) and inserting “a certified community-
2 based nonprofit social service agency (as defined
3 in subparagraph (I))”;

4 (B) in subparagraph (D)(ii)—

5 (i) by striking “or any community-
6 based” and all that follows through “in ac-
7 cordance” in subclause (II) and inserting
8 “or any certified community-based non-
9 profit social service agency (as defined in
10 subparagraph (I)), if the agency, in accord-
11 ance”;

12 (ii) by redesignating items (aa) and
13 (bb) as subclauses (I) and (II), respectively
14 (and adjusting the margination accord-
15 ingly); and

16 (iii) by striking “subclause (II)(bb)”
17 and inserting “subclause (II)”; and

18 (C) by adding at the end the following new
19 subparagraph:

20 “(I) For purposes of this paragraph, the term ‘certified
21 community-based nonprofit social service agency’ means a
22 community-based nonprofit social service agency which is
23 in compliance with requirements, under regulations which
24 shall be prescribed by the Commissioner, for annual certifi-
25 cation to the Commissioner that it is bonded in accordance

1 *with requirements specified by the Commissioner and that*
2 *it is licensed in each State in which it serves as a represent-*
3 *ative payee (if licensing is available in the State) in accord-*
4 *ance with requirements specified by the Commissioner. Any*
5 *such annual certification shall include a copy of any inde-*
6 *pendent audit on the agency which may have been per-*
7 *formed since the previous certification.”*

8 (3) *EFFECTIVE DATE.*—*The amendments made*
9 *by this subsection shall take effect on the first day of*
10 *the thirteenth month beginning after the date of the*
11 *enactment of this Act.*

12 (b) *PERIODIC ONSITE REVIEW.*—

13 (1) *TITLE II AMENDMENT.*—*Section 205(j)(6) of*
14 *such Act (42 U.S.C. 405(j)(6)) is amended to read as*
15 *follows:*

16 “(6)(A) *In addition to such other reviews of represent-*
17 *ative payees as the Commissioner of Social Security may*
18 *otherwise conduct, the Commissioner shall provide for the*
19 *periodic onsite review of any person or agency located in*
20 *the United States that receives the benefits payable under*
21 *this title (alone or in combination with benefits payable*
22 *under title VIII or title XVI) to another individual pursu-*
23 *ant to the appointment of such person or agency as a rep-*
24 *resentative payee under this subsection, section 807, or sec-*
25 *tion 1631(a)(2) in any case in which—*

1 “(i) the representative payee is a person who
2 serves in that capacity with respect to 15 or more
3 such individuals;

4 “(ii) the representative payee is a certified com-
5 munity-based nonprofit social service agency (as de-
6 fined in paragraph (9) of this subsection or section
7 1631(a)(2)(I)); or

8 “(iii) the representative payee is an agency
9 (other than an agency described in clause (ii)) that
10 serves in that capacity with respect to 50 or more
11 such individuals.

12 “(B) Within 120 days after the end of each fiscal year,
13 the Commissioner shall submit to the Committee on Ways
14 and Means of the House of Representatives and the Com-
15 mittee on Finance of the Senate a report on the results of
16 periodic onsite reviews conducted during the fiscal year
17 pursuant to subparagraph (A) and of any other reviews of
18 representative payees conducted during such fiscal year in
19 connection with benefits under this title. Each such report
20 shall describe in detail all problems identified in such re-
21 views and any corrective action taken or planned to be
22 taken to correct such problems, and shall include—

23 “(i) the number of such reviews;

24 “(ii) the results of such reviews;

1 “(iii) the number of cases in which the represent-
2 ative payee was changed and why;

3 “(iv) the number of cases involving the exercise
4 of expedited, targeted oversight of the representative
5 payee by the Commissioner conducted upon receipt of
6 an allegation of misuse of funds, failure to pay a ven-
7 dor, or a similar irregularity;

8 “(v) the number of cases discovered in which
9 there was a misuse of funds;

10 “(vi) how any such cases of misuse of funds were
11 dealt with by the Commissioner;

12 “(vii) the final disposition of such cases of mis-
13 use of funds, including any criminal penalties im-
14 posed; and

15 “(viii) such other information as the Commis-
16 sioner deems appropriate.”.

17 (2) *TITLE VIII AMENDMENT.*—Section 807 of
18 such Act (as amended by section 101(b)(2) of this Act)
19 is amended further by adding at the end the following
20 new subsection:

21 “(k) *PERIODIC ONSITE REVIEW.*—(1) In addition to
22 such other reviews of representative payees as the Commis-
23 sioner of Social Security may otherwise conduct, the Com-
24 missioner may provide for the periodic onsite review of any
25 person or agency that receives the benefits payable under

1 *this title (alone or in combination with benefits payable*
2 *under title II or title XVI) to another individual pursuant*
3 *to the appointment of such person or agency as a represent-*
4 *ative payee under this section, section 205(j), or section*
5 *1631(a)(2) in any case in which—*

6 “(A) *the representative payee is a person who*
7 *serves in that capacity with respect to 15 or more*
8 *such individuals; or*

9 “(B) *the representative payee is an agency that*
10 *serves in that capacity with respect to 50 or more*
11 *such individuals.*

12 “(2) *Within 120 days after the end of each fiscal year,*
13 *the Commissioner shall submit to the Committee on Ways*
14 *and Means of the House of Representatives and the Com-*
15 *mittee on Finance of the Senate a report on the results of*
16 *periodic onsite reviews conducted during the fiscal year*
17 *pursuant to paragraph (1) and of any other reviews of rep-*
18 *resentative payees conducted during such fiscal year in con-*
19 *nection with benefits under this title. Each such report*
20 *shall describe in detail all problems identified in such re-*
21 *views and any corrective action taken or planned to be*
22 *taken to correct such problems, and shall include—*

23 “(A) *the number of such reviews;*

24 “(B) *the results of such reviews;*

1 “(C) the number of cases in which the represent-
2 ative payee was changed and why;

3 “(D) the number of cases involving the exercise
4 of expedited, targeted oversight of the representative
5 payee by the Commissioner conducted upon receipt of
6 an allegation of misuse of funds, failure to pay a ven-
7 dor, or a similar irregularity;

8 “(E) the number of cases discovered in which
9 there was a misuse of funds;

10 “(F) how any such cases of misuse of funds were
11 dealt with by the Commissioner;

12 “(G) the final disposition of such cases of misuse
13 of funds, including any criminal penalties imposed;
14 and

15 “(II) such other information as the Commis-
16 sioner deems appropriate.”.

17 (3) TITLE XVI AMENDMENT.—Section
18 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G))
19 is amended to read as follows:

20 “(G)(i) In addition to such other reviews of representa-
21 tive payees as the Commissioner of Social Security may
22 otherwise conduct, the Commissioner shall provide for the
23 periodic onsite review of any person or agency that receives
24 the benefits payable under this title (alone or in combina-
25 tion with benefits payable under title II or title VIII) to

1 another individual pursuant to the appointment of the per-
2 son or agency as a representative payee under this para-
3 graph, section 205(j), or section 807 in any case in which—

4 “(I) the representative payee is a person who
5 serves in that capacity with respect to 15 or more
6 such individuals;

7 “(II) the representative payee is a certified com-
8 munity-based nonprofit social service agency (as de-
9 fined in subparagraph (I) of this paragraph or sec-
10 tion 205(j)(9)); or

11 “(III) the representative payee is an agency
12 (other than an agency described in subclause (II))
13 that serves in that capacity with respect to 50 or
14 more such individuals.

15 “(i) Within 120 days after the end of each fiscal year,
16 the Commissioner shall submit to the Committee on Ways
17 and Means of the House of Representatives and the Com-
18 mittee on Finance of the Senate a report on the results of
19 periodic onsite reviews conducted during the fiscal year
20 pursuant to clause (i) and of any other reviews of represent-
21 ative payees conducted during such fiscal year in connec-
22 tion with benefits under this title. Each such report shall
23 describe in detail all problems identified in the reviews and
24 any corrective action taken or planned to be taken to correct
25 the problems, and shall include—

1 “(I) the number of the reviews;

2 “(II) the results of such reviews;

3 “(III) the number of cases in which the rep-
4 resentative payee was changed and why;

5 “(IV) the number of cases involving the exercise
6 of expedited, targeted oversight of the representative
7 payee by the Commissioner conducted upon receipt of
8 an allegation of misuse of funds, failure to pay a ven-
9 dor, or a similar irregularity;

10 “(V) the number of cases discovered in which
11 there was a misuse of funds;

12 “(VI) how any such cases of misuse of funds were
13 dealt with by the Commissioner;

14 “(VII) the final disposition of such cases of mis-
15 use of funds, including any criminal penalties im-
16 posed; and

17 “(VIII) such other information as the Commis-
18 sioner deems appropriate.”.

1 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
2 **RESENTATIVE PAYEE OF PERSONS CON-**
3 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
4 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
5 **ING PROSECUTION, CUSTODY, OR CONFINE-**
6 **MENT.**

7 (a) *TITLE II AMENDMENTS.*—Section 205(j)(2) of the
8 *Social Security Act (42 U.S.C. 405(j)(2))* is amended—

9 (1) *in subparagraph (B)(i)*—

10 (A) *by striking “and” at the end of sub-*
11 *clause (III);*

12 (B) *by redesignating subclause (IV) as sub-*
13 *clause (VI); and*

14 (C) *by inserting after subclause (III) the*
15 *following new subclauses:*

16 “(IV) *obtain information concerning whether*
17 *such person has been convicted of any other offense*
18 *under Federal or State law which resulted in impris-*
19 *onment for more than 1 year,*

20 “(V) *obtain information concerning whether such*
21 *person is a person described in section*
22 *202(x)(1)(A)(iv), and”;*

23 (2) *in subparagraph (B), by adding at the end*
24 *the following new clause:*

25 “(iii) *Notwithstanding the provisions of section 552a*
26 *of title 5, United States Code, or any other provision of*

1 *Federal or State law (other than section 6103 of the Inter-*
2 *nal Revenue Code of 1986 and section 1106(c) of this Act),*
3 *the Commissioner shall furnish any Federal, State, or local*
4 *law enforcement officer, upon the written request of the offi-*
5 *cer, with the current address, social security account num-*
6 *ber, and photograph (if applicable) of any person inves-*
7 *tigated under this paragraph, if the officer furnishes the*
8 *Commissioner with the name of such person and such other*
9 *identifying information as may reasonably be required by*
10 *the Commissioner to establish the unique identity of such*
11 *person, and notifies the Commissioner that—*

12 “(I) such person is described in section
13 202(x)(1)(A)(iv),

14 “(II) such person has information that is nec-
15 essary for the officer to conduct the officer’s official
16 duties, and

17 “(III) the location or apprehension of such per-
18 son is within the officer’s official duties.”;

19 (3) in subparagraph (C)(i)(II), by striking “sub-
20 paragraph (B)(i)(IV),,” and inserting “subparagraph
21 (B)(i)(VI)” and striking “section
22 1631(a)(2)(B)(i)(IV)” and inserting “section
23 1631(a)(2)(B)(i)(VI)”;

24 (4) in subparagraph (C)(i)—

1 (A) by striking “or” at the end of subclause
2 (II);

3 (B) by striking the period at the end of sub-
4 clause (III) and inserting a comma; and

5 (C) by adding at the end the following new
6 subclauses:

7 “(IV) such person has previously been convicted
8 as described in subparagraph (B)(i)(IV), unless the
9 Commissioner determines that such certification
10 would be appropriate notwithstanding such convic-
11 tion, or

12 “(V) such person is person described in section
13 202(x)(1)(A)(iv).”.

14 (b) *TITLE VIII AMENDMENTS.*—Section 807 of such
15 Act (42 U.S.C. 1007) is amended—

16 (1) in subsection (b)(2)—

17 (A) by striking “and” at the end of sub-
18 paragraph (C);

19 (B) by redesignating subparagraph (D) as
20 subparagraph (F); and

21 (C) by inserting after subparagraph (C) the
22 following new subparagraphs:

23 “(D) obtain information concerning whether
24 such person has been convicted of any other of-

1 *fense under Federal or State law which resulted*
2 *in imprisonment for more than 1 year;*

3 “(E) obtain information concerning whether
4 such person is a person described in section
5 804(a)(2); and”;

6 (2) in subsection (b), by adding at the end the
7 following new paragraph:

8 “(3) Notwithstanding the provisions of section
9 552a of title 5, United States Code, or any other pro-
10 vision of Federal or State law (other than section
11 6103 of the Internal Revenue Code of 1986 and sec-
12 tion 1106(c) of this Act), the Commissioner shall fur-
13 nish any Federal, State, or local law enforcement offi-
14 cer, upon the written request of the officer, with the
15 current address, social security account number, and
16 photograph (if applicable) of any person investigated
17 under this subsection, if the officer furnishes the Com-
18 missioner with the name of such person and such
19 other identifying information as may reasonably be
20 required by the Commissioner to establish the unique
21 identity of such person, and notifies the Commis-
22 sioner that—

23 “(A) such person is described in section
24 804(a)(2),

1 “(B) such person has information that is
2 necessary for the officer to conduct the officer’s
3 official duties, and

4 “(C) the location or apprehension of such
5 person is within the officer’s official duties.”;
6 and

7 (3) in subsection (d)(1)—

8 (A) by striking “or” at the end of subpara-
9 graph (B);

10 (B) by striking the period at the end of sub-
11 paragraph (C) and inserting a semicolon; and

12 (C) by adding at the end the following new
13 subparagraphs:

14 “(D) such person has previously been con-
15 victed as described in subsection (b)(2)(D), un-
16 less the Commissioner determines that such pay-
17 ment would be appropriate notwithstanding such
18 conviction; or

19 “(E) such person is a person described in
20 section 804(a)(2).”.

21 (c) *TITLE XVI AMENDMENTS.*—Section 1631(a)(2)(B)
22 of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

23 (1) in clause (ii)—

24 (A) by striking “and” at the end of sub-
25 clause (III);

1 (B) by redesignating subclause (IV) as sub-
2 clause (VI); and

3 (C) by inserting after subclause (III) the
4 following new subclauses:

5 “(IV) obtain information concerning whether the
6 person has been convicted of any other offense under
7 Federal or State law which resulted in imprisonment
8 for more than 1 year;

9 “(V) obtain information concerning whether such
10 person is a person described in section 1611(e)(4)(A);
11 and”;

12 (2) in clause (iii)(II)—

13 (A) by striking “clause (ii)(IV)” and insert-
14 ing “clause (ii)(VI)”; and

15 (B) by striking “section
16 205(j)(2)(B)(i)(IV)” and inserting “section
17 205(j)(2)(B)(i)(VI)”;

18 (3) in clause (iii)—

19 (A) by striking “or” at the end of subclause
20 (II);

21 (B) by striking the period at the end of sub-
22 clause (III) and inserting a semicolon; and

23 (C) by adding at the end the following new
24 subclauses:

1 “(IV) the person has previously been convicted as
2 described in clause (ii)(IV) of this subparagraph, un-
3 less the Commissioner determines that the payment
4 would be appropriate notwithstanding the conviction;
5 or

6 “(V) such person is a person described in section
7 1611(e)(4)(A).”; and

8 (4) by adding at the end the following new
9 clause:

10 “(xiv) Notwithstanding the provisions of section 552a
11 of title 5, United States Code, or any other provision of
12 Federal or State law (other than section 6103 of the Inter-
13 nal Revenue Code of 1986 and section 1106(c) of this Act),
14 the Commissioner shall furnish any Federal, State, or local
15 law enforcement officer, upon the written request of the offi-
16 cer, with the current address, social security account num-
17 ber, and photograph (if applicable) of any person inves-
18 tigated under this subparagraph, if the officer furnishes the
19 Commissioner with the name of such person and such other
20 identifying information as may reasonably be required by
21 the Commissioner to establish the unique identity of such
22 person, and notifies the Commissioner that—

23 “(I) such person is described in section
24 1611(e)(4)(A),

1 “(II) such person has information that is nec-
2 essary for the officer to conduct the officer’s official
3 duties, and

4 “(III) the location or apprehension of such per-
5 son is within the officer’s official duties.”.

6 (d) *EFFECTIVE DATE.*—The amendments made by this
7 section shall take effect on the first day of the thirteenth
8 month beginning after the date of the enactment of this Act.

9 (e) *REPORT TO THE CONGRESS.*—The Commissioner
10 of Social Security, in consultation with the Inspector Gen-
11 eral of the Social Security Administration, shall prepare
12 a report evaluating whether the existing procedures and re-
13 views for the qualification (including disqualification) of
14 representative payees are sufficient to enable the Commis-
15 sioner to protect benefits from being misused by representa-
16 tive payees. The Commissioner shall submit the report to
17 the Committee on Ways and Means of the House of Rep-
18 resentatives and the Committee on Finance of the Senate
19 no later than 270 days after the date of the enactment of
20 this Act. The Commissioner shall include in such report any
21 recommendations that the Commissioner considers appro-
22 priate.

1 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY**
2 **REPRESENTATIVE PAYEES.**

3 (a) *TITLE II AMENDMENTS.*—Section 205(j)(4)(A)(i)
4 of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is
5 amended—

6 (1) in the first sentence, by striking “A” and in-
7 serting “Except as provided in the next sentence, a”;
8 and

9 (2) in the second sentence, by striking “The Sec-
10 retary” and inserting the following:

11 “A qualified organization may not collect a fee from an
12 individual for any month with respect to which the Com-
13 missioner of Social Security or a court of competent juris-
14 diction has determined that the organization misused all
15 or part of the individual’s benefit, and any amount so col-
16 lected by the qualified organization for such month shall
17 be treated as a misused part of the individual’s benefit for
18 purposes of paragraphs (5) and (6). The Commissioner”.

19 (b) *TITLE XVI AMENDMENTS.*—Section
20 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i))
21 is amended—

22 (1) in the first sentence, by striking “A” and in-
23 serting “Except as provided in the next sentence, a”;
24 and

25 (2) in the second sentence, by striking “The
26 Commissioner” and inserting the following: “A quali-

1 *fied organization may not collect a fee from an indi-*
 2 *vidual for any month with respect to which the Com-*
 3 *missioner of Social Security or a court of competent*
 4 *jurisdiction has determined that the organization*
 5 *misused all or part of the individual's benefit, and*
 6 *any amount so collected by the qualified organization*
 7 *for such month shall be treated as a misused part of*
 8 *the individual's benefit for purposes of subparagraphs*
 9 *(E) and (F). The Commissioner”.*

10 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 11 *section shall apply to any month involving benefit misuse*
 12 *by a representative payee in any case with respect to which*
 13 *the Commissioner of Social Security or a court of competent*
 14 *jurisdiction makes the determination of misuse after 180*
 15 *days after the date of the enactment of this Act.*

16 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MIS-**
 17 **USED BENEFITS.**

18 (a) *TITLE II AMENDMENTS.*—*Section 205(j) of the So-*
 19 *cial Security Act (42 U.S.C. 405(j)) (as amended by sec-*
 20 *tions 101 and 102) is amended further—*

21 (1) *by redesignating paragraphs (7), (8), and (9)*
 22 *as paragraphs (8), (9), and (10), respectively;*

23 (2) *in paragraphs (2)(C)(v), (3)(F), and (4)(B),*
 24 *by striking “paragraph (9)” and inserting “para-*
 25 *graph (10)”;*

1 (3) in paragraph (6)(A)(ii), by striking “para-
2 graph (9)” and inserting “paragraph (10)”; and

3 (4) by inserting after paragraph (6) the fol-
4 lowing new paragraph:

5 “(7)(A) If the Commissioner of Social Security or a
6 court of competent jurisdiction determines that a represent-
7 ative payee that is not a Federal, State, or local government
8 agency has misused all or part of an individual’s benefit
9 that was paid to such representative payee under this sub-
10 section, the representative payee shall be liable for the
11 amount misused, and such amount (to the extent not repaid
12 by the representative payee) shall be treated as an overpay-
13 ment of benefits under this title to the representative payee
14 for all purposes of this Act and related laws pertaining to
15 the recovery of such overpayments. Subject to subparagraph
16 (B), upon recovering all or any part of such amount, the
17 Commissioner shall certify an amount equal to the recov-
18 ered amount for payment to such individual or such indi-
19 vidual’s alternative representative payee.

20 “(B) The total of the amount certified for payment to
21 such individual or such individual’s alternative representa-
22 tive payee under subparagraph (A) and the amount cer-
23 tified for payment under paragraph (5) may not exceed the
24 total benefit amount misused by the representative payee
25 with respect to such individual.”.

1 (b) *TITLE VIII AMENDMENT.*—Section 807 of such Act
2 (as amended by section 102(b)(2)) is amended further by
3 adding at the end the following new subsection:

4 “(l) *LIABILITY FOR MISUSED AMOUNTS.*—

5 “(1) *IN GENERAL.*—If the Commissioner of So-
6 cial Security or a court of competent jurisdiction de-
7 termines that a representative payee that is not a
8 Federal, State, or local government agency has mis-
9 used all or part of a qualified individual’s benefit
10 that was paid to such representative payee under this
11 section, the representative payee shall be liable for the
12 amount misused, and such amount (to the extent not
13 repaid by the representative payee) shall be treated as
14 an overpayment of benefits under this title to the rep-
15 resentative payee for all purposes of this Act and re-
16 lated laws pertaining to the recovery of such overpay-
17 ments. Subject to paragraph (2), upon recovering all
18 or any part of such amount, the Commissioner shall
19 make payment of an amount equal to the recovered
20 amount to such qualified individual or such qualified
21 individual’s alternative representative payee.

22 “(2) *LIMITATION.*—The total of the amount paid
23 to such individual or such individual’s alternative
24 representative payee under paragraph (1) and the
25 amount paid under subsection (i) may not exceed the

1 *total benefit amount misused by the representative*
2 *payee with respect to such individual.”.*

3 (c) *TITLE XVI AMENDMENTS.—Section 1631(a)(2) of*
4 *such Act (42 U.S.C. 1383(a)(2)) (as amended by section*
5 *102(b)(3)) is amended further—*

6 (1) *in subparagraph (G)(i)(II), by striking “sec-*
7 *tion 205(j)(9)” and inserting “section 205(j)(10)”;*
8 *and*

9 (2) *by striking subparagraph (H) and inserting*
10 *the following:*

11 “(H)(i) *If the Commissioner of Social Security or a*
12 *court of competent jurisdiction determines that a represent-*
13 *ative payee that is not a Federal, State, or local government*
14 *agency has misused all or part of an individual’s benefit*
15 *that was paid to the representative payee under this para-*
16 *graph, the representative payee shall be liable for the*
17 *amount misused, and the amount (to the extent not repaid*
18 *by the representative payee) shall be treated as an overpay-*
19 *ment of benefits under this title to the representative payee*
20 *for all purposes of this Act and related laws pertaining to*
21 *the recovery of the overpayments. Subject to clause (ii),*
22 *upon recovering all or any part of the amount, the Commis-*
23 *sioner shall make payment of an amount equal to the recov-*
24 *ered amount to such individual or such individual’s alter-*
25 *native representative payee.*

1 “(ii) *The total of the amount paid to such individual*
2 *or such individual’s alternative representative payee under*
3 *clause (i) and the amount paid under subparagraph (E)*
4 *may not exceed the total benefit amount misused by the rep-*
5 *resentative payee with respect to such individual.”.*

6 (d) *EFFECTIVE DATE.*—*The amendments made by this*
7 *section shall apply to benefit misuse by a representative*
8 *payee in any case with respect to which the Commissioner*
9 *of Social Security or a court of competent jurisdiction*
10 *makes the determination of misuse after 180 days after the*
11 *date of the enactment of this Act.*

12 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
13 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
14 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

15 (a) *TITLE II AMENDMENTS.*—*Section 205(j)(3) of the*
16 *Social Security Act (42 U.S.C. 405(j)(3)) (as amended by*
17 *sections 102(a)(1)(B) and 105(a)(2)) is amended—*

18 (1) *by redesignating subparagraphs (E) and (F)*
19 *as subparagraphs (F) and (G), respectively; and*

20 (2) *by inserting after subparagraph (D) the fol-*
21 *lowing new subparagraph:*

22 “(E) *In any case in which the person described in sub-*
23 *paragraph (A) or (D) receiving payments on behalf of an-*
24 *other fails to submit a report required by the Commissioner*
25 *of Social Security under subparagraph (A) or (D), the*

1 *Commissioner may, after furnishing notice to such person*
2 *and the individual entitled to such payment, require that*
3 *such person appear in person at a field office of the Social*
4 *Security Administration serving the area in which the indi-*
5 *vidual resides in order to receive such payments.”.*

6 *(b) TITLE VIII AMENDMENTS.—Section 807(h) of such*
7 *Act (42 U.S.C. 1007(h)) is amended—*

8 *(1) by redesignating paragraphs (3) and (4) as*
9 *paragraphs (4) and (5), respectively; and*

10 *(2) by inserting after paragraph (2) the fol-*
11 *lowing new paragraph:*

12 *“(3) AUTHORITY TO REDIRECT DELIVERY OF*
13 *BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE*
14 *FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any*
15 *case in which the person described in paragraph (1)*
16 *or (2) receiving benefit payments on behalf of a quali-*
17 *fied individual fails to submit a report required by*
18 *the Commissioner of Social Security under paragraph*
19 *(1) or (2), the Commissioner may, after furnishing*
20 *notice to such person and the qualified individual, re-*
21 *quire that such person appear in person at a United*
22 *States Government facility designated by the Social*
23 *Security Administration as serving the area in which*
24 *the qualified individual resides in order to receive*
25 *such benefit payments.”.*

1 (c) *TITLE XVI AMENDMENT.*—Section 1631(a)(2)(C)
 2 of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by add-
 3 ing at the end the following new clause:

4 “(v) In any case in which the person described in
 5 clause (i) or (iv) receiving payments on behalf of another
 6 fails to submit a report required by the Commissioner of
 7 Social Security under clause (i) or (iv), the Commissioner
 8 may, after furnishing notice to the person and the indi-
 9 vidual entitled to the payment, require that such person ap-
 10 pear in person at a field office of the Social Security Ad-
 11 ministration serving the area in which the individual re-
 12 sides in order to receive such payments.”.

13 (d) *EFFECTIVE DATE.*—The amendment made by this
 14 section shall take effect 180 days after the date of the enact-
 15 ment of this Act.

16 **Subtitle B—Enforcement**

17 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 18 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 19 **RESENTATIVE PAYEES.**

20 (a) *IN GENERAL.*—Section 1129(a) of the Social Secu-
 21 rity Act (42 U.S.C. 1320a–8) is amended by adding at the
 22 end the following new paragraph:

23 “(3) Any person (including an organization, agency,
 24 or other entity) who, having received, while acting in the
 25 capacity of a representative payee pursuant to section

1 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
2 or XVI for the use and benefit of another individual, con-
3 verts such payment, or any part thereof, to a use that such
4 person knows or should know is other than for the use and
5 benefit of such other individual shall be subject to, in addi-
6 tion to any other penalties that may be prescribed by law,
7 a civil money penalty of not more than \$5,000 for each
8 such conversion. Such person shall also be subject to an as-
9 sessment, in lieu of damages sustained by the United States
10 resulting from the conversion, of not more than twice the
11 amount of any payments so converted.”.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall apply with respect to violations committed
14 after the date of the enactment of this Act.

15 **TITLE II—PROGRAM**

16 **PROTECTIONS**

17 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**
18 **SPECT TO KNOWING WITHHOLDING OF MATE-**
19 **RIAL FACTS.**

20 (a) *TREATMENT OF WITHHOLDING OF MATERIAL*
21 *FACTS.*—

22 (1) *CIVIL PENALTIES.*—Section 1129(a)(1) of the
23 *Social Security Act (42 U.S.C. 1320a–8(a)(1)) is*
24 *amended—*

1 (A) by striking “who” in the first sentence
2 and inserting “who—”;

3 (B) by striking “makes” in the first sen-
4 tence and all that follows through “shall be sub-
5 ject to,” and inserting the following:

6 “(A) makes, or causes to be made, a statement or
7 representation of a material fact, for use in deter-
8 mining any initial or continuing right to or the
9 amount of monthly insurance benefits under title II
10 or benefits or payments under title VIII or XVI, that
11 the person knows or should know is false or mis-
12 leading,

13 “(B) makes such a statement or representation
14 for such use with knowing disregard for the truth, or

15 “(C) omits from a statement or representation
16 for such use, or otherwise withholds disclosure of, a
17 fact which the person knows or should know is mate-
18 rial to the determination of any initial or continuing
19 right to or the amount of monthly insurance benefits
20 under title II or benefits or payments under title VIII
21 or XVI, if the person knows, or should know, that the
22 statement or representation with such omission is
23 false or misleading or that the withholding of such
24 disclosure is misleading,
25 shall be subject to,”;

1 (C) by inserting “or each receipt of such
2 benefits or payments while withholding disclo-
3 sure of such fact” after “each such statement or
4 representation” in the first sentence;

5 (D) by inserting “or because of such with-
6 holding of disclosure of a material fact” after
7 “because of such statement or representation” in
8 the second sentence; and

9 (E) by inserting “or such a withholding of
10 disclosure” after “such a statement or represen-
11 tation” in the second sentence.

12 (2) *ADMINISTRATIVE PROCEDURE FOR IMPOSING*
13 *PENALTIES.*—Section 1129A(a) of such Act (42
14 U.S.C. 1320a–8a(a)) is amended—

15 (A) by striking “who” the first place it ap-
16 pears and inserting “who—”; and

17 (B) by striking “makes” and all that follows
18 through “shall be subject to,” and inserting the
19 following:

20 “(1) makes, or causes to be made, a statement or
21 representation of a material fact, for use in deter-
22 mining any initial or continuing right to or the
23 amount of monthly insurance benefits under title II
24 or benefits or payments under title XVI that the per-
25 son knows or should know is false or misleading,

1 “(2) makes such a statement or representation
2 for such use with knowing disregard for the truth, or

3 “(3) omits from a statement or representation for
4 such use, or otherwise withholds disclosure of, a fact
5 which the person knows or should know is material
6 to the determination of any initial or continuing
7 right to or the amount of monthly insurance benefits
8 under title II or benefits or payments under title XVI,
9 if the person knows, or should know, that the state-
10 ment or representation with such omission is false or
11 misleading or that the withholding of such disclosure
12 is misleading,

13 shall be subject to,”.

14 (b) CLARIFICATION OF TREATMENT OF RECOVERED
15 AMOUNTS.—Section 1129(e)(2)(B) of such Act (42
16 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the
17 case of amounts recovered arising out of a determination
18 relating to title VIII or XVI,” and inserting “In the case
19 of any other amounts recovered under this section,”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 1129(b)(3)(A) of such Act (42
22 U.S.C. 1320a–8(b)(3)(A)) is amended by striking
23 “charging fraud or false statements”.

24 (2) Section 1129(c)(1) of such Act (42
25 U.S.C. 1320a–8(c)(1)) is amended by striking “and

1 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
2 **ING PROSECUTION, CUSTODY, OR CONFINEMENT,**
3 **AND TO PERSONS VIOLATING PROBATION OR PAROLE.**
4

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

7 (1) *in the heading, by striking “Prisoners” and all that follows and inserting the following: “Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees”;*

11 (2) *in paragraph (1)(A)(ii)(IV), by striking “or” at the end;*

13 (3) *in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;*

15 (4) *by inserting after paragraph (1)(A)(iii) the following:*

17 “(iv) *is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or*

24 “(v) *is violating a condition of probation or parole imposed under Federal or State law.*

1 *In the case of an individual from whom such monthly bene-*
2 *fits have been withheld pursuant to clause (iv) or (v), the*
3 *Commissioner may, for good cause shown, pay such with-*
4 *held benefits to the individual.”; and*

5 *(5) in paragraph (3), by adding at the end the*
6 *following new subparagraph:*

7 *“(C) Notwithstanding the provisions of section 552a*
8 *of title 5, United States Code, or any other provision of*
9 *Federal or State law (other than section 6103 of the Inter-*
10 *nal Revenue Code of 1986 and section 1106(c) of this Act),*
11 *the Commissioner shall furnish any Federal, State, or local*
12 *law enforcement officer, upon the written request of the offi-*
13 *cer, with the current address, Social Security number, and*
14 *photograph (if applicable) of any beneficiary under this*
15 *title, if the officer furnishes the Commissioner with the*
16 *name of the beneficiary, and other identifying information*
17 *as reasonably required by the Commissioner to establish the*
18 *unique identity of the beneficiary, and notifies the Commis-*
19 *sioner that—*

20 *“(i) the beneficiary—*

21 *“(I) is described in clause (iv) or (v) of*
22 *paragraph (1)(A); and*

23 *“(II) has information that is necessary for*
24 *the officer to conduct the officer’s official duties;*
25 *and*

1 “(ii) the location or apprehension of the bene-
2 ficiary is within the officer’s official duties.”.

3 (b) *REGULATIONS*.—Not later than the first day of the
4 first month that begins on or after the date that is 9 months
5 after the date of the enactment of this Act, the Commissioner
6 of Social Security shall promulgate regulations governing
7 payment by the Commissioner, for good cause shown, of
8 withheld benefits, pursuant to the last sentence of section
9 202(x)(1)(A) of the Social Security Act (as amended by sub-
10 section (a)).

11 (c) *EFFECTIVE DATE*.—The amendments made by sub-
12 section (a) shall take effect on the first day of the first
13 month that begins on or after the date that is 9 months
14 after the date of the enactment of this Act.

15 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
16 **VIDE FOR A FEE A PRODUCT OR SERVICE**
17 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
18 **CIAL SECURITY ADMINISTRATION.**

19 (a) *IN GENERAL*.—Section 1140 of the Social Security
20 Act (42 U.S.C. 1320b–10) is amended—

21 (1) in subsection (a), by adding at the end the
22 following new paragraph:

23 “(4)(A) No person shall offer, for a fee, to assist an
24 individual to obtain a product or service that the person
25 knows or should know is provided free of charge by the So-

1 cial Security Administration unless, at the time the offer
2 is made, the person provides to the individual to whom the
3 offer is tendered a notice that—

4 “(i) explains that the product or service is avail-
5 able free of charge from the Social Security Adminis-
6 tration, and

7 “(ii) complies with standards prescribed by the
8 Commissioner of Social Security respecting the con-
9 tent of such notice and its placement, visibility, and
10 legibility.

11 “(B) Subparagraph (A) shall not apply to any offer—

12 “(i) to serve as a claimant representative in con-
13 nection with a claim arising under title II, title VIII,
14 or title XVI; or

15 “(ii) to prepare, or assist in the preparation of,
16 an individual’s plan for achieving self-support under
17 title XVI.”; and

18 (2) in the heading, by striking “PROHIBITION OF
19 MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-
20ERENCE” and inserting “PROHIBITIONS RELATING TO
21REFERENCES”.

22 (b) *EFFECTIVE DATE.*—The amendments made by this
23 section shall apply to offers of assistance made after the
24 sixth month ending after the Commissioner of Social Secu-
25 rity promulgates final regulations prescribing the stand-

1 ards applicable to the notice required to be provided in con-
2 nection with such offer. The Commissioner shall promul-
3 gate such final regulations within 1 year after the date of
4 the enactment of this Act.

5 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**
6 **AS CLAIMANT REPRESENTATIVES.**

7 Section 206(a)(1) of the Social Security Act (42
8 U.S.C. 406(a)(1)) is amended by inserting after the second
9 sentence the following: "Notwithstanding the preceding sen-
10 tences, the Commissioner, after due notice and opportunity
11 for hearing, (A) may refuse to recognize as a representative,
12 and may disqualify a representative already recognized,
13 any attorney who has been disbarred or suspended from any
14 court or bar to which he or she was previously admitted
15 to practice or who has been disqualified from participating
16 in or appearing before any Federal program or agency, and
17 (B) may refuse to recognize, and may disqualify, as a non-
18 attorney representative any attorney who has been dis-
19 barred or suspended from any court or bar to which he or
20 she was previously admitted to practice. A representative
21 who has been disqualified or suspended pursuant to this sec-
22 tion from appearing before the Social Security Administra-
23 tion as a result of collecting or receiving a fee in excess
24 of the amount authorized shall be barred from appearing
25 before the Social Security Administration as a representa-

1 *tive until full restitution is made to the claimant and,*
2 *thereafter, may be considered for reinstatement only under*
3 *such rules as the Commissioner may prescribe.”.*

4 **SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTER-**
5 **FERENCE WITH ADMINISTRATION OF SOCIAL**
6 **SECURITY ACT.**

7 *Part A of title XI of the Social Security Act (42*
8 *U.S.C. 1301 et seq.) is amended by inserting after section*
9 *1129A the following new section:*

10 *“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF*
11 *SOCIAL SECURITY ACT*

12 *“SEC. 1129B. Whoever corruptly or by force or threats*
13 *of force (including any threatening letter or communica-*
14 *tion) attempts to intimidate or impede any officer, em-*
15 *ployee, or contractor of the Social Security Administration*
16 *(including any State employee of a disability determina-*
17 *tion service or any other individual designated by the Com-*
18 *missioner of Social Security) acting in an official capacity*
19 *to carry out a duty under this Act, or in any other way*
20 *corruptly or by force or threats of force (including any*
21 *threatening letter or communication) obstructs or impedes,*
22 *or attempts to obstruct or impede, the due administration*
23 *of this Act, shall be fined not more than \$5,000, imprisoned*
24 *not more than 3 years, or both, except that if the offense*
25 *is committed only by threats of force, the person shall be*
26 *fined not more than \$3,000, imprisoned not more than 1*

1 *year, or both. In this subsection, the term ‘threats of force’*
 2 *means threats of harm to the officer or employee of the*
 3 *United States or to a contractor of the Social Security Ad-*
 4 *ministration, or to a member of the family of such an officer*
 5 *or employee or contractor.”.*

6 **SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**
 7 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

8 (a) *IN GENERAL.*—Section 1140(a)(1) of the Social Se-
 9 *curity Act (42 U.S.C. 1320b–10(a)(1)) is amended—*

10 (1) *in subparagraph (A), by inserting “ ‘Centers*
 11 *for Medicare & Medicaid Services’,” after “ ‘Health*
 12 *Care Financing Administration’,”, by striking “or*
 13 *‘Medicaid’, ” and inserting “ ‘Medicaid’, ‘Death Ben-*
 14 *efits Update’, ‘Federal Benefit Information’, ‘Funeral*
 15 *Expenses’, or ‘Final Supplemental Plan’,” and by in-*
 16 *serting “ ‘CMS’,” after “ ‘HCFA’,”;*

17 (2) *in subparagraph (B), by inserting “Centers*
 18 *for Medicare & Medicaid Services,” after “Health*
 19 *Care Financing Administration,” each place it ap-*
 20 *pears; and*

21 (3) *in the matter following subparagraph (B), by*
 22 *striking “the Health Care Financing Administra-*
 23 *tion,” each place it appears and inserting “the Cen-*
 24 *ters for Medicare & Medicaid Services,”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to items sent after 180 days after the*
3 *date of the enactment of this Act.*

4 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
5 **TRIAL WORK PERIOD UPON CONVICTION OF**
6 **FRAUDULENT CONCEALMENT OF WORK AC-**
7 **TIVITY.**

8 (a) *IN GENERAL.*—*Section 222(c) of the Social Secu-*
9 *rity Act (42 U.S.C. 422(c)) is amended by adding at the*
10 *end the following new paragraph:*

11 “(5) *Upon conviction by a Federal court that an indi-*
12 *vidual has fraudulently concealed work activity during a*
13 *period of trial work from the Commissioner of Social Secu-*
14 *rity by—*

15 “(A) *providing false information to the Commis-*
16 *sioner of Social Security as to whether the individual*
17 *had earnings in or for a particular period, or as to*
18 *the amount thereof;*

19 “(B) *receiving disability insurance benefits*
20 *under this title while engaging in work activity under*
21 *another identity, including under another social secu-*
22 *rity account number or a number purporting to be a*
23 *social security account number; or*

24 “(C) *taking other actions to conceal work activ-*
25 *ity with an intent fraudulently to secure payment in*

1 *a greater amount than is due or when no payment*
 2 *is authorized,*
 3 *no benefit shall be payable to such individual under this*
 4 *title with respect to a period of disability for any month*
 5 *before such conviction during which the individual rendered*
 6 *services during the period of trial work with respect to*
 7 *which the fraudulently concealed work activity occurred,*
 8 *and amounts otherwise due under this title as restitution,*
 9 *penalties, assessments, fines, or other repayments shall in*
 10 *all cases be in addition to any amounts for which such indi-*
 11 *vidual is liable as overpayments by reason of such conceal-*
 12 *ment.”.*

13 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 14 *section (a) shall apply with respect to work activity per-*
 15 *formed after the date of the enactment of this Act.*

16 **SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITU-**
 17 **TION.**

18 (a) *AMENDMENTS TO TITLE II.*—*Section 208 of the*
 19 *Social Security Act (42 U.S.C. 408) is amended—*

20 (1) *by redesignating subsections (b), (c), and (d)*
 21 *as subsections (c), (d), and (e), respectively; and*

22 (2) *by inserting after subsection (a) the following*
 23 *new subsection:*

24 “(b)(1) *Any Federal court, when sentencing a defend-*
 25 *ant convicted of an offense under subsection (a), may order,*

1 *in addition to or in lieu of any other penalty authorized*
2 *by law, that the defendant make restitution to the Social*
3 *Security Administration.*

4 “(2) Sections 3612, 3663, and 3664 of title 18, United
5 States Code, shall apply with respect to the issuance and
6 enforcement of orders of restitution under this subsection.
7 In so applying such sections, the Social Security Adminis-
8 tration shall be considered the victim.

9 “(3) If the court does not order restitution, or orders
10 only partial restitution, under this subsection, the court
11 shall state on the record the reasons therefor.”

12 (b) *AMENDMENTS TO TITLE VIII.*—Section 807(i) of
13 such Act (42 U.S.C. 1007(i)) is amended—

14 (1) by striking “(i) *RESTITUTION.*—In any case
15 where” and inserting the following:

16 “(i) *RESTITUTION.*—

17 “(1) *IN GENERAL.*—In any case where”; and

18 (2) by adding at the end the following new para-
19 graph:

20 “(2) *COURT ORDER FOR RESTITUTION.*—

21 “(A) *IN GENERAL.*—Any Federal court,
22 when sentencing a defendant convicted of an of-
23 fense under subsection (a), may order, in addi-
24 tion to or in lieu of any other penalty authorized

1 by law, that the defendant make restitution to
2 the Social Security Administration.

3 “(B) *RELATED PROVISIONS.*—Sections
4 3612, 3663, and 3664 of title 18, United States
5 Code, shall apply with respect to the issuance
6 and enforcement of orders of restitution under
7 this paragraph. In so applying such sections, the
8 Social Security Administration shall be consid-
9 ered the victim.

10 “(C) *STATED REASONS FOR NOT ORDERING*
11 *RESTITUTION.*—If the court does not order res-
12 titution, or orders only partial restitution, under
13 this paragraph, the court shall state on the
14 record the reasons therefor.”.

15 (c) *AMENDMENTS TO TITLE XVI.*—Section 1632 of
16 such Act (42 U.S.C. 1383a) is amended—

17 (1) by redesignating subsection (b) as subsection
18 (c); and

19 (2) by inserting after subsection (a) the following
20 new subsection:

21 “(b)(1) Any Federal court, when sentencing a defend-
22 ant convicted of an offense under subsection (a), may order,
23 in addition to or in lieu of any other penalty authorized
24 by law, that the defendant make restitution to the Social
25 Security Administration.

1 “(2) Sections 3612, 3663, and 3664 of title 18, United
2 States Code, shall apply with respect to the issuance and
3 enforcement of orders of restitution under this subsection.
4 In so applying such sections, the Social Security Adminis-
5 tration shall be considered the victim.

6 “(3) If the court does not order restitution, or orders
7 only partial restitution, under this subsection, the court
8 shall state on the record the reasons therefor.”.

9 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION
10 PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b))
11 is amended by adding at the end the following new para-
12 graph:

13 “(3)(A) Except as provided in subparagraph (B),
14 amounts received by the Social Security Administration
15 pursuant to an order of restitution under section 208(b),
16 807(i), or 1632(b) shall be credited to a special fund estab-
17 lished in the Treasury of the United States for amounts so
18 received or recovered. The amounts so credited, to the extent
19 and in the amounts provided in advance in appropriations
20 Acts, shall be available to defray expenses incurred in car-
21 rying out titles II, VIII, and XVI.

22 “(B) Subparagraph (A) shall not apply with respect
23 to amounts received in connection with misuse by a rep-
24 resentative payee (within the meaning of sections 205(j),
25 807, and 1631(a)(2)) of funds paid as benefits under title

1 *II, VIII, or XVI. Such amounts received in connection with*
2 *misuse of funds paid as benefits under title II shall be*
3 *transferred to the Managing Trustee of the Federal Old-Age*
4 *and Survivors Insurance Trust Fund or the Federal Dis-*
5 *ability Insurance Trust Fund, as determined appropriate*
6 *by the Commissioner of Social Security, and such amounts*
7 *shall be deposited by the Managing Trustee into such Trust*
8 *Fund. All other such amounts shall be deposited by the*
9 *Commissioner into the general fund of the Treasury as mis-*
10 *cellaneous receipts.”.*

11 (e) *EFFECTIVE DATE.*—*The amendments made by sub-*
12 *sections (a), (b), and (c) shall apply with respect to viola-*
13 *tions occurring on or after the date of the enactment of this*
14 *Act.*

15 **TITLE III—ATTORNEY FEE PAY-**
16 **MENT SYSTEM IMPROVE-**
17 **MENTS**

18 **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

19 (a) *IN GENERAL.*—*Section 206(d)(2)(A) of the Social*
20 *Security Act (42 U.S.C. 406(d)(2)(A)) is amended—*

21 (1) *by inserting “, except that the maximum*
22 *amount of the assessment may not exceed the greater*
23 *of \$75 or the adjusted amount as provided pursuant*
24 *to the following two sentences” after “subparagraph*
25 *(B)”;* and

1 (1) in subparagraph (A), in the matter preceding
2 clause (i)—

3 (A) by striking “section 206(a)” and insert-
4 ing “section 206”;

5 (B) by striking “(other than paragraph (4)
6 thereof)” and inserting “(other than subsections
7 (a)(4) and (d) thereof)”; and

8 (C) by striking “paragraph (2) thereof” and
9 inserting “such section”;

10 (2) in subparagraph (A)(i), by striking “in sub-
11 paragraphs (A)(ii)(I) and (C)(i),” and inserting “in
12 subparagraphs (A)(ii)(I) and (D)(i) of subsection
13 (a)(2)”, and by striking “and” at the end;

14 (3) by striking subparagraph (A)(ii) and insert-
15 ing the following:

16 “(ii) by substituting, in subsections (a)(2)(B)
17 and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A) or
18 the requirements of due process of law’ for the phrase
19 ‘subsection (g) or (h) of section 223’;

20 “(iii) by substituting, in subsection (a)(2)(C)(i),
21 the phrase ‘under title II’ for the phrase ‘under title
22 XVI’;

23 “(iv) by substituting, in subsection (b)(1)(A), the
24 phrase ‘pay the amount of such fee’ for the phrase
25 ‘certify the amount of such fee for payment’ and by

1 *striking, in subsection (b)(1)(A), the phrase ‘or cer-*
2 *tified for payment’; and*

3 *“(v) by substituting, in subsection (b)(1)(B)(ii),*
4 *the phrase ‘deemed to be such amounts as determined*
5 *before any applicable reduction under section 1631(g),*
6 *and reduced by the amount of any reduction in bene-*
7 *fits under this title or title II made pursuant to sec-*
8 *tion 1127(a)’ for the phrase ‘determined before any*
9 *applicable reduction under section 1127(a)).’; and*

10 *(4) by striking subparagraph (B) and inserting*
11 *the following new subparagraphs:*

12 *“(B) Subject to subparagraph (C), if the claimant is*
13 *determined to be entitled to past-due benefits under this title*
14 *and the person representing the claimant is an attorney,*
15 *the Commissioner of Social Security shall pay out of such*
16 *past-due benefits to such attorney an amount equal to the*
17 *lesser of—*

18 *“(i) so much of the maximum fee as does not ex-*
19 *ceed 25 percent of such past-due benefits (as deter-*
20 *mined before any applicable reduction under section*
21 *1631(g) and reduced by the amount of any reduction*
22 *in benefits under this title or title II pursuant to sec-*
23 *tion 1127(a)), or*

1 “(i) the amount of past-due benefits available
2 after any applicable reductions under sections
3 1631(g) and 1127(a).

4 “(C)(i) Whenever a fee for services is required to be
5 paid to an attorney from a claimant’s past-due benefits
6 pursuant to subparagraph (B), the Commissioner shall im-
7 pose on the attorney an assessment calculated in accordance
8 with clause (ii).

9 “(i)(I) The amount of an assessment under clause (i)
10 shall be equal to the product obtained by multiplying the
11 amount of the representative’s fee that would be required
12 to be paid by subparagraph (B) before the application of
13 this subparagraph, by the percentage specified in subclause
14 (II), except that the maximum amount of the assessment
15 may not exceed \$75. In the case of any calendar year begin-
16 ning after the amendments made by section 302 of the So-
17 cial Security Protection Act of 2003 take effect, the dollar
18 amount specified in the preceding sentence (including a
19 previously adjusted amount) shall be adjusted annually
20 under the procedures used to adjust benefit amounts under
21 section 215(i)(2)(A)(ii), except such adjustment shall be
22 based on the higher of \$75 or the previously adjusted
23 amount that would have been in effect for December of the
24 preceding year, but for the rounding of such amount pursu-
25 ant to the following sentence. Any amount so adjusted that

1 is not a multiple of \$1 shall be rounded to the next lowest
2 multiple of \$1, but in no case less than \$75.

3 “(II) The percentage specified in this subclause is such
4 percentage rate as the Commissioner determines is nec-
5 essary in order to achieve full recovery of the costs of deter-
6 mining and approving fees to attorneys from the past-due
7 benefits of claimants, but not in excess of 6.3 percent.

8 “(iii) The Commissioner may collect the assessment
9 imposed on an attorney under clause (i) by offset from the
10 amount of the fee otherwise required by subparagraph (B)
11 to be paid to the attorney from a claimant’s past-due bene-
12 fits.

13 “(iv) An attorney subject to an assessment under
14 clause (i) may not, directly or indirectly, request or other-
15 wise obtain reimbursement for such assessment from the
16 claimant whose claim gave rise to the assessment.

17 “(v) Assessments on attorneys collected under this sub-
18 paragraph shall be deposited in the Treasury in a separate
19 fund created for this purpose.

20 “(vi) The assessments authorized under this subpara-
21 graph shall be collected and available for obligation only
22 to the extent and in the amount provided in advance in
23 appropriations Acts. Amounts so appropriated are author-
24 ized to remain available until expended, for administrative
25 expenses in carrying out this title and related laws.”

1 (b) *EFFECTIVE DATE.*—

2 (1) *IN GENERAL.*—*The amendments made by*
3 *this section shall apply with respect to fees for rep-*
4 *resentation of claimants which are first required to be*
5 *certified or paid under section 1631(d)(2) of the So-*
6 *cial Security Act on or after the first day of the first*
7 *month that begins after 270 days after the date of the*
8 *enactment of this Act.*

9 (2) *SUNSET.*—*Such amendments shall not apply*
10 *with respect to fees for representation of claimants in*
11 *the case of any claim for benefits with respect to*
12 *which the agreement for representation is entered into*
13 *after 5 years after the date on which the Commis-*
14 *sioner of Social Security first implements the amend-*
15 *ments made by this section.*

16 (c) *STUDY REGARDING FEE-WITHHOLDING FOR NON-*
17 *ATTORNEY REPRESENTATIVES.*—

18 (1) *STUDY.*—*As soon as practicable after the*
19 *date of the enactment of this Act, the Comptroller*
20 *General of the United States shall undertake a study*
21 *regarding fee-withholding for non-attorney representa-*
22 *tives representing claimants before the Social Security*
23 *Administration.*

1 (2) *MATTERS TO BE STUDIED.*—*In conducting*
2 *the study under this subsection, the Comptroller Gen-*
3 *eral shall—*

4 (A) *compare the non-attorney representa-*
5 *tives who seek fee approval for representing*
6 *claimants before the Social Security Administra-*
7 *tion to attorney representatives who seek such fee*
8 *approval, with regard to—*

9 (i) *their training, qualifications, and*
10 *competency,*

11 (ii) *the type and quality of services*
12 *provided, and*

13 (iii) *the extent to which claimants are*
14 *protected through oversight of such rep-*
15 *resentatives by the Social Security Admin-*
16 *istration or other organizations, and*

17 (B) *consider the potential results of extend-*
18 *ing to non-attorney representatives the fee with-*
19 *holding procedures that apply under titles II*
20 *and XVI of the Social Security Act for the pay-*
21 *ment of attorney fees, including the effect on*
22 *claimants and program administration.*

23 (3) *REPORT.*—*Not later than 1 year after the*
24 *date of the enactment of this Act, the Comptroller*
25 *General shall submit to the Committee on Ways and*

1 *Means of the House of Representatives and the Com-*
2 *mittee on Finance of the Senate a report detailing the*
3 *results of the Comptroller General's study conducted*
4 *pursuant to this subsection.*

5 ***TITLE IV—MISCELLANEOUS AND***
6 ***TECHNICAL AMENDMENTS***

7 ***Subtitle A—Amendments Relating***
8 ***to the Ticket to Work and Work***
9 ***Incentives Improvement Act of***
10 ***1999***

11 ***SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY***

12 ***SUNSET DATE TO NEW PROJECTS.***

13 *Section 234 of the Social Security Act (42 U.S.C. 434)*
14 *is amended—*

15 (1) *in the first sentence of subsection (c), by*
16 *striking “conducted under subsection (a)” and insert-*
17 *ing “initiated under subsection (a) on or before De-*
18 *cember 17, 2004”; and*

19 (2) *in subsection (d)(2), by amending the first*
20 *sentence to read as follows: “The authority to initiate*
21 *projects under the preceding provisions of this section*
22 *shall terminate on December 18, 2004.”.*

1 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
2 **IN CONNECTION WITH DEMONSTRATION**
3 **PROJECTS PROVIDING FOR REDUCTIONS IN**
4 **DISABILITY INSURANCE BENEFITS BASED ON**
5 **EARNINGS.**

6 *Section 302(c) of the Ticket to Work and Work Incen-*
7 *tives Improvement Act of 1999 (42 U.S.C. 434 note) is*
8 *amended by striking “(42 U.S.C. 401 et seq.),” and insert-*
9 *ing “(42 U.S.C. 401 et seq.) and the requirements of section*
10 *1148 of such Act (42 U.S.C. 1320b–19) as they relate to*
11 *the program established under title II of such Act,”.*

12 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
13 **VIDED FOR REDUCTIONS IN DISABILITY IN-**
14 **SURANCE BENEFITS BASED ON EARNINGS.**

15 *Section 302(f) of the Ticket to Work and Work Incen-*
16 *tives Improvement Act of 1999 (42 U.S.C. 434 note) is*
17 *amended to read as follows:*

18 *“(f) EXPENDITURES.—Administrative expenses for*
19 *demonstration projects under this section shall be paid from*
20 *funds available for the administration of title II or XVIII*
21 *of the Social Security Act, as appropriate. Benefits payable*
22 *to or on behalf of individuals by reason of participation*
23 *in projects under this section shall be made from the Federal*
24 *Disability Insurance Trust Fund and the Federal Old-Age*
25 *and Survivors Insurance Trust Fund, as determined appro-*
26 *priate by the Commissioner of Social Security, and from*

1 *the Federal Hospital Insurance Trust Fund and the Federal*
2 *Supplementary Medical Insurance Trust Fund, as deter-*
3 *mined appropriate by the Secretary of Health and Human*
4 *Services, from funds available for benefits under such title*
5 *II or XVIII.”.*

6 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
7 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
8 **UALS.**

9 (a) *FEDERAL WORK INCENTIVES OUTREACH PRO-*
10 *GRAM.—*

11 (1) *IN GENERAL.—Section 1149(c)(2) of the So-*
12 *cial Security Act (42 U.S.C. 1320b–20(c)(2)) is*
13 *amended to read as follows:*

14 “(2) *DISABLED BENEFICIARY.—The term ‘dis-*
15 *abled beneficiary’ means an individual—*

16 “(A) *who is a disabled beneficiary as de-*
17 *finied in section 1148(k)(2) of this Act;*

18 “(B) *who is receiving a cash payment de-*
19 *scribed in section 1616(a) of this Act or a sup-*
20 *plementary payment described in section*
21 *212(a)(3) of Public Law 93–66 (without regard*
22 *to whether such payment is paid by the Commis-*
23 *sioner pursuant to an agreement under section*
24 *1616(a) of this Act or under section 212(b) of*
25 *Public Law 93–66);*

1 “(C) who, pursuant to section 1619(b) of
2 this Act, is considered to be receiving benefits
3 under title XVI of this Act; or

4 “(D) who is entitled to benefits under part
5 A of title XVIII of this Act by reason of the pe-
6 nultimate sentence of section 226(b) of this Act.”.

7 (2) *EFFECTIVE DATE.*—The amendment made by
8 this subsection shall apply with respect to grants, co-
9 operative agreements, or contracts entered into on or
10 after the date of the enactment of this Act.

11 (b) *STATE GRANTS FOR WORK INCENTIVES ASSIST-*
12 *ANCE.*—

13 (1) *DEFINITION OF DISABLED BENEFICIARY.*—
14 Section 1150(g)(2) of such Act (42 U.S.C. 1320b-
15 21(g)(2)) is amended to read as follows:

16 “(2) *DISABLED BENEFICIARY.*—The term ‘dis-
17 abled beneficiary’ means an individual—

18 “(A) who is a disabled beneficiary as de-
19 fined in section 1148(k)(2) of this Act;

20 “(B) who is receiving a cash payment de-
21 scribed in section 1616(a) of this Act or a sup-
22 plementary payment described in section
23 212(a)(3) of Public Law 93-66 (without regard
24 to whether such payment is paid by the Commis-
25 sioner pursuant to an agreement under section

1 *“An individual work plan established pursuant to*
2 *this subsection shall be treated, for purposes of section*
3 *51(d)(6)(B)(i) of the Internal Revenue Code of 1986,*
4 *as an individualized written plan for employment*
5 *under a State plan for vocational rehabilitation serv-*
6 *ices approved under the Rehabilitation Act of 1973.”.*

7 ***(b) EFFECTIVE DATE.***—*The amendment made by sub-*
8 *section (a) shall take effect as if included in section 505*
9 *of the Ticket to Work and Work Incentives Improvement*
10 *Act of 1999 (Public Law 106–170; 113 Stat. 1921).*

11 ***Subtitle B—Miscellaneous*** 12 ***Amendments***

13 ***SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN***
14 ***REMAND CASES FULLY FAVORABLE TO THE***
15 ***CLAIMANT.***

16 ***(a) IN GENERAL.***—*Section 205(g) of the Social Secu-*
17 *rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-*
18 *tence by striking “and a transcript” and inserting “and,*
19 *in any case in which the Commissioner has not made a*
20 *decision fully favorable to the individual, a transcript”.*

21 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
22 *section shall apply with respect to final determinations*
23 *issued (upon remand) on or after the date of the enactment*
24 *of this Act.*

1 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
2 **FROM THE UNITED STATES.**

3 (a) *IN GENERAL.*—Paragraphs (1) and (2) of section
4 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2))
5 are each amended by striking “or (1)(E)”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section to section 202(n)(1) of the Social Security Act shall
8 apply to individuals with respect to whom the Commis-
9 sioner of Social Security receives a removal notice from the
10 Attorney General after the date of the enactment of this Act.
11 The amendment made by this section to section 202(n)(2)
12 of the Social Security Act shall apply with respect to remov-
13 als occurring after the date of the enactment of this Act.

14 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**
15 **QUIREMENTS.**

16 Section 3003(a)(1) of the Federal Reports Elimination
17 and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not
18 apply to any report required to be submitted under any
19 of the following provisions of law:

20 (1)(A) Section 201(c)(2) of the Social Security
21 Act (42 U.S.C. 401(c)(2)).

22 (B) Section 1817(b)(2) of the Social Security Act
23 (42 U.S.C. 1395i(b)(2)).

24 (C) Section 1841(b)(2) of the Social Security Act
25 (42 U.S.C. 1395t(b)(2)).

1 (2)(A) Section 221(c)(3)(C) of the Social Secu-
2 rity Act (42 U.S.C. 421(c)(3)(C)).

3 (B) Section 221(i)(3) of the Social Security Act
4 (42 U.S.C. 421(i)(3)).

5 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**
6 **CERTAIN SURVIVOR BENEFITS.**

7 (a) *WIDOWS.*—Section 216(c) of the Social Security
8 Act (42 U.S.C. 416(c)) is amended—

9 (1) by redesignating subclauses (A) through (C)
10 of clause (6) as subclauses (i) through (iii), respec-
11 tively;

12 (2) by redesignating clauses (1) through (6) as
13 clauses (A) through (F), respectively;

14 (3) in clause (E) (as redesignated), by inserting
15 “except as provided in paragraph (2),” before “she
16 was married”;

17 (4) by inserting “(1)” after “(c)”; and

18 (5) by adding at the end the following new para-
19 graph:

20 “(2) The requirements of paragraph (1)(E) in connec-
21 tion with the surviving wife of an individual shall be treat-
22 ed as satisfied if—

23 “(A) the individual had been married prior to
24 the individual’s marriage to the surviving wife,

1 “(B) the prior wife was institutionalized during
2 the individual’s marriage to the prior wife due to
3 mental incompetence or similar incapacity,

4 “(C) during the period of the prior wife’s insti-
5 tutionalization, the individual would have divorced
6 the prior wife and married the surviving wife, but the
7 individual did not do so because such divorce would
8 have been unlawful, by reason of the prior wife’s in-
9 stitutionalization, under the laws of the State in
10 which the individual was domiciled at the time (as
11 determined based on evidence satisfactory to the Com-
12 missioner of Social Security),

13 “(D) the prior wife continued to remain institu-
14 tionalized up to the time of her death, and

15 “(E) the individual married the surviving wife
16 within 60 days after the prior wife’s death.”.

17 (b) WIDOWERS.—Section 216(g) of such Act (42
18 U.S.C. 416(g)) is amended—

19 (1) by redesignating subclauses (A) through (C)
20 of clause (6) as subclauses (i) through (iii), respec-
21 tively;

22 (2) by redesignating clauses (1) through (6) as
23 clauses (A) through (F), respectively;

1 (3) in clause (E) (as redesignated), by inserting
2 “except as provided in paragraph (2),” before “he was
3 married”;

4 (4) by inserting “(1)” after “(g)”; and

5 (5) by adding at the end the following new para-
6 graph:

7 “(2) The requirements of paragraph (1)(E) in connec-
8 tion with the surviving husband of an individual shall be
9 treated as satisfied if—

10 “(A) the individual had been married prior to
11 the individual’s marriage to the surviving husband,

12 “(B) the prior husband was institutionalized
13 during the individual’s marriage to the prior husband
14 due to mental incompetence or similar incapacity,

15 “(C) during the period of the prior husband’s in-
16 stitutionalization, the individual would have divorced
17 the prior husband and married the surviving hus-
18 band, but the individual did not do so because such
19 divorce would have been unlawful, by reason of the
20 prior husband’s institutionalization, under the laws
21 of the State in which the individual was domiciled at
22 the time (as determined based on evidence satisfactory
23 to the Commissioner of Social Security),

24 “(D) the prior husband continued to remain in-
25 stitutionalized up to the time of his death, and

1 “(E) the individual married the surviving hus-
2 band within 60 days after the prior husband’s
3 death.”.

4 (c) *CONFORMING AMENDMENT.*—Section 216(k) of
5 such Act (42 U.S.C. 416(k)) is amended by striking “clause
6 (5) of subsection (c) or clause (5) of subsection (g)” and
7 inserting “clause (E) of subsection (c)(1) or clause (E) of
8 subsection (g)(1)”.

9 (d) *EFFECTIVE DATE.*—The amendments made by this
10 section shall be effective with respect to applications for ben-
11 efits under title II of the Social Security Act filed during
12 months ending after the date of the enactment of this Act.

13 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA**
14 **TAX EXEMPTIONS FOR AN INDIVIDUAL**
15 **WHOSE EARNINGS ARE SUBJECT TO THE**
16 **LAWS OF A TOTALIZATION AGREEMENT PART-**
17 **NER.**

18 Sections 1401(c), 3101(c), and 3111(c) of the Internal
19 Revenue Code of 1986 are each amended by striking “to
20 taxes or contributions for similar purposes under” and in-
21 serting “exclusively to the laws applicable to”.

1 **SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM**
2 **FOR PUBLIC EMPLOYEES IN KENTUCKY.**

3 (a) *IN GENERAL.*—Section 218(d)(6)(C) of the Social
4 Security Act (42 U.S.C. 418(d)(6)(C)) is amended by in-
5 serting “Kentucky,” after “Illinois,”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-
7 section (a) takes effect on January 1, 2003.

8 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVI-**
9 **SORY BOARD.**

10 (a) *IN GENERAL.*—Subsection (f) of section 703 of the
11 Social Security Act (42 U.S.C. 903(f)) is amended to read
12 as follows:

13 “Compensation, Expenses, and Per Diem
14 “(f) A member of the Board shall, for each day (includ-
15 ing traveltime) during which the member is attending meet-
16 ings or conferences of the Board or otherwise engaged in
17 the business of the Board, be compensated at the daily rate
18 of basic pay for level IV of the Executive Schedule. While
19 serving on business of the Board away from their homes
20 or regular places of business, members may be allowed trav-
21 el expenses, including per diem in lieu of subsistence, as
22 authorized by section 5703 of title 5, United States Code,
23 for persons in the Government employed intermittently.”.

24 (b) *EFFECTIVE DATE.*—The amendment made by this
25 section shall be effective as of January 1, 2003.

1 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
2 **MENT FOR APPLICATION OF GOVERNMENT**
3 **PENSION OFFSET EXEMPTION.**

4 (a) **WIFE'S INSURANCE BENEFITS.**—Section
5 202(b)(4)(A) of the Social Security Act (42 U.S.C.
6 402(b)(4)(A)) is amended by striking “if, on” and inserting
7 “if, during any portion of the last 60 months of such service
8 ending with”.

9 (b) **HUSBAND'S INSURANCE BENEFITS.**—Section
10 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amend-
11 ed by striking “if, on” and inserting “if, during any por-
12 tion of the last 60 months of such service ending with”.

13 (c) **WIDOW'S INSURANCE BENEFITS.**—Section
14 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amend-
15 ed by striking “if, on” and inserting “if, during any por-
16 tion of the last 60 months of such service ending with”.

17 (d) **WIDOWER'S INSURANCE BENEFITS.**—Section
18 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amend-
19 ed by striking “if, on” and inserting “if, during any por-
20 tion of the last 60 months of such service ending with”.

21 (e) **MOTHER'S AND FATHER'S INSURANCE BENE-**
22 **FITS.**—Section 202(g)(4)(A) of the such Act (42 U.S.C.
23 402(g)(4)(A)) is amended by striking “if, on” and inserting
24 “if, during any portion of the last 60 months of such service
25 ending with”.

1 (f) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply with respect to applications for benefits*
 3 *under title II of the Social Security Act filed on or after*
 4 *the first day of the first month that begins after the date*
 5 *of the enactment of this Act, except that such amendments*
 6 *shall not apply in connection with monthly periodic bene-*
 7 *fits of any individual based on earnings while in service*
 8 *described in section 202(b)(4)(A), 202(c)(2)(A),*
 9 *202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in*
 10 *the matter preceding clause (i) thereof)—*

11 (1) *if the last day of such service occurs before*
 12 *the end of the 90-day period following the date of the*
 13 *enactment of this Act, or*

14 (2) *in any case in which the last day of such*
 15 *service occurs after the end of such 90-day period,*
 16 *such individual performed such service during such*
 17 *90-day period which constituted “employment” as de-*
 18 *finied in section 210 of such Act, and all such service*
 19 *subsequently performed by such individual has con-*
 20 *stituted such “employment”.*

21 ***Subtitle C—Technical Amendments***

22 ***SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-*** 23 ***SIBLE AGENCY HEAD.***

24 Section 1143 of the Social Security Act (42
 25 U.S.C. 1320b–13) is amended—

1 (1) by striking “Secretary” the first place it ap-
 2 pears and inserting “Commissioner of Social Secu-
 3 rity”; and

4 (2) by striking “Secretary” each subsequent place
 5 it appears and inserting “Commissioner”.

6 **SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-**
 7 **MENT BENEFITS OF MINISTERS.**

8 (a) *IN GENERAL.*—Section 211(a)(7) of the Social Se-
 9 curity Act (42 U.S.C. 411(a)(7)) is amended by inserting
 10 “, but shall not include in any such net earnings from self-
 11 employment the rental value of any parsonage or any par-
 12 sonage allowance (whether or not excluded under section
 13 107 of the Internal Revenue Code of 1986) provided after
 14 the individual retires, or any other retirement benefit re-
 15 ceived by such individual from a church plan (as defined
 16 in section 414(e) of such Code) after the individual retires”
 17 before the semicolon.

18 (b) *EFFECTIVE DATE.*—The amendment made by this
 19 section shall apply to years beginning before, on, or after
 20 December 31, 1994.

21 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
 22 **TIC EMPLOYMENT.**

23 (a) *AMENDMENT TO INTERNAL REVENUE CODE.*—Sec-
 24 tion 3121(a)(7)(B) of the Internal Revenue Code of 1986

1 *is amended by striking “described in subsection (g)(5)” and*
2 *inserting “on a farm operated for profit”.*

3 (b) *AMENDMENT TO SOCIAL SECURITY ACT.—Section*
4 *209(a)(6)(B) of the Social Security Act (42*
5 *U.S.C. 409(a)(6)(B)) is amended by striking “described in*
6 *section 210(f)(5)” and inserting “on a farm operated for*
7 *profit”.*

8 (c) *CONFORMING AMENDMENT.—Section 3121(g)(5) of*
9 *such Code and section 210(f)(5) of such Act (42*
10 *U.S.C. 410(f)(5)) are amended by striking “or is domestic*
11 *service in a private home of the employer”.*

12 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**
13 **ERENCES.**

14 (a) *CORRECTION OF TERMINOLOGY AND CITATIONS*
15 *RESPECTING REMOVAL FROM THE UNITED STATES.—Sec-*
16 *tion 202(n) of the Social Security Act (42 U.S.C. 402(n))*
17 *(as amended by section 412) is amended further—*

18 (1) *by striking “deportation” each place it ap-*
19 *pears and inserting “removal”;*

20 (2) *by striking “deported” each place it appears*
21 *and inserting “removed”;*

22 (3) *in paragraph (1) (in the matter preceding*
23 *subparagraph (A)), by striking “under section 241(a)*
24 *(other than under paragraph (1)(C) thereof)” and in-*

1 serting “under section 237(a) (other than paragraph
2 (1)(C) thereof) or 212(a)(6)(A)”;

3 (4) in paragraph (2), by striking “under any of
4 the paragraphs of section 241(a) of the Immigration
5 and Nationality Act (other than under paragraph
6 (1)(C) thereof)” and inserting “under any of the
7 paragraphs of section 237(a) of the Immigration and
8 Nationality Act (other than paragraph (1)(C) thereof)
9 or under section 212(a)(6)(A) of such Act”;

10 (5) in paragraph (3)—

11 (A) by striking “paragraph (19) of section
12 241(a)” and inserting “subparagraph (D) of sec-
13 tion 237(a)(4)”;

14 (B) by striking “paragraph (19)” and in-
15 serting “subparagraph (D)”;

16 (6) in the heading, by striking “Deportation”
17 and inserting “Removal”.

18 (b) *CORRECTION OF CITATION RESPECTING THE TAX*
19 *DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF*
20 *SELF-EMPLOYED INDIVIDUALS.*—Section 211(a)(15) of
21 such Act (42 U.S.C. 411(a)(15)) is amended by striking
22 “section 162(m)” and inserting “section 162(l)”.

23 (c) *ELIMINATION OF REFERENCE TO OBSOLETE 20-*
24 *DAY AGRICULTURAL WORK TEST.*—Section 3102(a) of the
25 Internal Revenue Code of 1986 is amended by striking “and

1 *the employee has not performed agricultural labor for the*
2 *employer on 20 days or more in the calendar year for cash*
3 *remuneration computed on a time basis”.*

4 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**
5 **PLOYMENT INCOME IN COMMUNITY PROP-**
6 **ERTY STATES.**

7 (a) *SOCIAL SECURITY ACT AMENDMENT.—Section*
8 *211(a)(5)(A) of the Social Security Act (42*
9 *U.S.C. 411(a)(5)(A)) is amended by striking “all of the*
10 *gross income” and all that follows and inserting “the gross*
11 *income and deductions attributable to such trade or busi-*
12 *ness shall be treated as the gross income and deductions*
13 *of the spouse carrying on such trade or business or, if such*
14 *trade or business is jointly operated, treated as the gross*
15 *income and deductions of each spouse on the basis of their*
16 *respective distributive share of the gross income and deduc-*
17 *tions;”.*

18 (b) *INTERNAL REVENUE CODE OF 1986 AMEND-*
19 *MENT.—Section 1402(a)(5)(A) of the Internal Revenue*
20 *Code of 1986 is amended by striking “all of the gross in-*
21 *come” and all that follows and inserting “the gross income*
22 *and deductions attributable to such trade or business shall*
23 *be treated as the gross income and deductions of the spouse*
24 *carrying on such trade or business or, if such trade or busi-*
25 *ness is jointly operated, treated as the gross income and*

- 1 *deductions of each spouse on the basis of their respective*
- 2 *distributive share of the gross income and deductions; and”.*

RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Armed Services:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective March 5, 2003, I hereby take a leave of absence from the Committee on Armed Services due to my appointments to the Permanent Select Committee on Intelligence and the Committee on Government Reform.

Sincerely,

C. A. DUTCH RUPPERSBERGER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Ms. DELAURO. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 124) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 124

Resolved, That the following named Members and Delegates be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON ARMED SERVICES: Mr. Ryan of Ohio (to rank immediately after Mr. Alexander).

(2) COMMITTEE ON EDUCATION: Mr. Bishop of New York (to rank immediately after Mr. Ryan of Ohio).

(3) COMMITTEE ON FINANCIAL SERVICES: Mr. Sanders (to rank immediately after Ms. Waters).

(4) COMMITTEE ON GOVERNMENT REFORM: Mr. Sanders (to rank immediately after Mr. Kanjorski), Mr. Cooper (to rank immediately after Ms. Norton).

(5) COMMITTEE ON RESOURCES: Mr. George Miller of California, Mr. Markey, Mr. Hinojosa, Mr. Rodriguez, Mr. Baca, Ms. McCollum.

(6) COMMITTEE ON SCIENCE: Mr. Cardoza (to rank immediately after Mr. Matheson), Ms. Jackson-Lee of Texas (to rank immediately after Mr. Davis of Tennessee), Ms. Lofgren (to rank immediately after Ms. Jackson-Lee of Texas).

(7) COMMITTEE ON SMALL BUSINESS: Mr. Faleomavaega (to rank immediately after Mr. Ballance), Ms. Linda T. Sánchez.

Ms. DELAURO (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair

will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance the program protections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 743

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

Sec. 205. Refusal to recognize certain individuals as claimant representatives.

Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(1) is not an individual; or

"(2) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2)."

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

"(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) For the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit

social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification."

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following new subparagraph:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause

(ii) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate."

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

"(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

"(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

"(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

"(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(A) the number of such reviews;

"(B) the results of such reviews;

"(C) the number of cases in which the representative payee was changed and why;

"(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(E) the number of cases discovered in which there was a misuse of funds;

"(F) how any such cases of misuse of funds were dealt with by the Commissioner;

"(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(H) such other information as the Commissioner deems appropriate."

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

"(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

"(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

"(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

"(I) the number of the reviews;

"(II) the results of such reviews;

"(III) the number of cases in which the representative payee was changed and why;

"(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(V) the number of cases discovered in which there was a misuse of funds;

"(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

"(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(VIII) such other information as the Commissioner deems appropriate."

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

"(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.

"(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

(2) in subparagraph (B), by adding at the end the following new clause:

"(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 202(x)(1)(A)(iv),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties."

(3) in subparagraph (C)(i)(II), by striking "subparagraph (B)(i)(IV)," and inserting "subparagraph (B)(i)(VI)" and striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(i)(VI)"; and

(4) in subparagraph (C)(i)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following new subclauses:

"(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

"(V) such person is person described in section 202(x)(1)(A)(iv)."

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following new subparagraphs:

"(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(E) obtain information concerning whether such person is a person described in section 804(a)(2); and";

(2) in subsection (b), by adding at the end 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 (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(A) such person is described in section 804(a)(2).

“(B) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(C) the location or apprehension of such person is within the officer’s official duties.”; and

(3) in subsection (d)(1)—

(A) by striking “or” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

“(E) such person is a person described in section 804(a)(2).”.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and”;

(2) in clause (iii)(II)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI)”;

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI)”;

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

“(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is a person described in section 1611(e)(4)(A).”;

(4) by adding at the end the following new clause:

“(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 1611(e)(4)(A),

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the

first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner”.

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Commissioner” and inserting the following:

“A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10)”;

(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10)”;

(4) by inserting after paragraph (6) the following new paragraph:

“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction de-

termines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.

“(B) The total of the amount certified for payment to such individual or such individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”.

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

“(1) LIABILITY FOR MISUSED AMOUNTS.—

“(I) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

“(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”;

(2) by striking subparagraph (H) and inserting the following:

“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) **TITLE II AMENDMENTS.**—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) **TITLE VIII AMENDMENTS.**—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) **AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.**—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

(c) **TITLE XVI AMENDMENT.**—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(d) **EFFECTIVE DATE.**—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) **IN GENERAL.**—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) **TREATMENT OF WITHHOLDING OF MATERIAL FACTS.**—

(1) **CIVIL PENALTIES.**—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to" and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to";

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) **ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.**—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking "who" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to."

(b) **CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.**—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section."

(c) **CONFORMING AMENDMENTS.**—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting "representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(v) is violating a condition of probation or parole imposed under Federal or State law. In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary—
 "(I) is described in clause (iv) or (v) of paragraph (1)(A); and

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties."

(b) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe."

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor."

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," by striking "or 'Medicaid,'" and inserting " 'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan,'" and by inserting " 'CMS,'" after " 'HCFA,'" ;

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

"(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

"(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

"(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized.

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim."

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor."

(b) AMENDMENTS TO TITLE VIII.—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking "(i) RESTITUTION.—In any case where" and inserting the following:

"(i) RESTITUTION.—

"(1) IN GENERAL.—In any case where"; and

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

"(2) COURT ORDER FOR RESTITUTION.—

"(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

"(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor."

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor."

(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

"(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the

Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts."

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting ", except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

(2) by adding at the end the following new sentence: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "section 206(a)" and inserting "section 206";

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(C) by striking "paragraph (2) thereof" and inserting "such section";

(2) in subparagraph (A)(i), by striking "in subparagraphs (A)(ii)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)", and by striking "and" at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'section 1631(a)(7)(A) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

"(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

"(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

"(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such

amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a)'; and

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

"(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

"(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

"(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

"(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

"(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

"(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

"(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

"(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated

are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

(c) STUDY REGARDING FEE-WITHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

(i) their training, qualifications, and competency,

(ii) the type and quality of services provided, and

(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General’s study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2004”; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.”

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42

U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.)” and inserting “(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.”

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.”

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—
“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking “or (1)(E)”.

(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "she was married";

(4) by inserting "(1)" after "(c)"; and

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

"(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving wife,

"(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

"(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior wife continued to remain institutionalized up to the time of her death, and

"(E) the individual married the surviving wife within 60 days after the prior wife's death."

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "he was married";

(4) by inserting "(1)" after "(g)"; and

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

"(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving husband,

"(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

"(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death."

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed dur-

ing months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky," after "Illinois,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently."

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the

Social Security Act (in the matter preceding clause (i) thereof)—

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted "employment" as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such "employment".

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting ". but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "removed";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

(5) in paragraph (3)—

(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions:".

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions: and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

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

Madam Speaker, Social Security, as everyone in this Chamber knows, touches the lives of virtually every American and serves as a vital safety net for those who retire, become disabled or die. Nearly \$500 billion in Social Security and supplemental security income benefits were paid last year to about 50 million retired and disabled workers their families and SSI recipients. These costs represent close to one-fourth of all Federal outlays last year. More importantly, as baby boomers approach retirement age, Social Security's and SSI's combined benefit outlays are expected to double by the time children born this year finish high school. Programs as important, as comprehensive as these require our constant vigilance. We must act today to address inadequate protections for beneficiaries and the programs in order to avoid potentially tragic consequences in the future.

This is why I urge all Members to support the Social Security Protection Act of 2003. This is a bipartisan bill introduced earlier this month by myself and the gentleman from California (Mr. MATSUI) along with other Members of Congress. The Protection Act will give the Social Security Administration the additional tools needed to fight activities that drain resources from Social Security and undermine the financial security of beneficiaries.

First, this bill protects the one in eight Social Security and SSI beneficiaries who cannot, for physical or mental reasons, handle their own funds. For these persons, the Social Security Administration appoints an individual or organization called a representative payee to manage their benefits. While most representative payees are conscientious and they are honest, some violate the trust placed in them.

The Social Security Inspector General reported that in the late 1990's over 2,400 representative payees missed about \$12 million in benefits. This bill raises the standard for persons and organizations serving as representative payees and imposes stricter regulation and monetary penalties on those who mismanage benefits.

Second, this bill picks up where legislation enacted in 1996 let off in ending benefit payments to those who committed crimes. That legislation denied SSI benefits to fugitive felons. However, these criminals are still allowed to receive Social Security benefits. The Congressional Budget Office estimates that they will pay \$526 million out of the Social Security trust fund to these law-breakers over the next 10 years. This is not right, and this legislation denies them these benefits.

The Protection Act also provides tools to further safeguard Social Security programs. Our goals are to help shield Social Security employees from harm while conducting their duties, expanding the Inspector General's ability to stop perpetrators of fraud through new civil monetary penalties, and prevent people from misrepresenting themselves as they provide Social Security-related services.

□ 1100

On top of this, the bill helps individuals with disabilities by, one, making it easier for them to obtain legal representation while applying for benefits by improving the attorney fee withholding process; two, enhancing provisions of the Ticket to Work Program; and, three, encouraging more employers to hire individuals with disabilities by expanding eligibility for the Work Opportunity Tax Credit.

Finally, the bill contains several provisions aimed at correcting inequities in the law regarding benefit coverage and receipt, as well as making technical corrections to the law.

It is our and the agency's duty to protect Social Security programs and the beneficiaries. This bill is the culmination of bipartisan efforts towards

that, and as well as the cooperation and support of the Social Security Administration and the Social Security Inspector General. That is why the 107th Congress's version of the bill, the Social Security Protection Act of 2002, passed this House by an overwhelming bipartisan support of 425 to 0 and passed the Senate as amended under unanimous consent.

I urge the Members today to finish the good work begun in the 107th Congress and vote in favor of the Social Security Protection Act. We must enact these changes quickly to protect the most vulnerable beneficiaries and to stop Social Security from hemorrhaging precious dollars through fraud and benefit misuse.

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

Mr. MATSUI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first of all, I wish to commend the Chair of the Subcommittee on Social Security, the gentleman from Florida (Mr. SHAW), for the bipartisanship in which we were able to put this legislation together. As many know, and as the gentleman from Florida (Mr. SHAW) mentioned, we passed this bill last year, in the last Congress, but unfortunately, it was dropped during the waning hours of the joint House-Senate conference committees in the month of October. So now we are bringing the bill back.

It essentially has four parts to it. We added one provision which has become somewhat controversial. As the gentleman from Florida (Mr. SHAW) says, it has strengthening of the representative pay provisions of the law. Obviously, when someone is mentally disabled or one is a child, one needs a representative payee. This bill strengthens that law to protect the recipient, the beneficiary.

Second, it provides anti-fraud provisions in the legislation, including denying benefits to fugitive felons and also those who have violated their parole.

Thirdly, it provides for SSI recipients more of the advantages of having a lawyer or others represent that person as they are going through the administrative process, essentially by creating the same kind of withholding of benefits by the attorney or other representative of the claimant as we currently have in the Social Security System. So SSI beneficiaries will have the same kind of rights as the Social Security recipients. And, in addition, it caps attorneys' fees, the processing fees, to \$75. So it will make it much easier for people to actually go through the administrative procedures.

It has 18 technical provisions in the legislation, or in the bill last year. The one area in which we have added to it is it closes a loophole in which some have attempted to get around the GPO, the government pension offset provisions that are currently in the law. The gentleman from Florida (Mr. SHAW) has indicated to me and to others that he intends to have hearings on the whole

issue of the government pension offset issue. And as a result of that, I am very satisfied with this legislation.

As I indicated, Mr. Speaker, many of my colleagues have problems with it on my side of the aisle. They intend to speak on this issue today. I would urge a "yes" vote on it, but I certainly can understand some of those that might have some differences of opinion on that one provision.

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

Mr. SHAW. Mr. Speaker, I insert for the RECORD two documents. The first is bipartisan summary report language, including a detailed summary of current law and an explanation of each provision and the reasons for the change. The second is a list of organizations, including AARP, that provided letters of support for this bill, with those letters attached.

"THE SOCIAL SECURITY PROTECTION ACT OF 2003" SUMMARY

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Section 101. Authority to Reissue Benefits Misused by Organizational Representative Payees

PRESENT LAW

The Social Security Act requires the re-issuance of benefits misused by any representative payee when the Commissioner finds that the Social Security Administration (SSA) negligently failed to investigate and monitor the payee.

EXPLANATION OF PROVISION

In addition to cases where the SSA negligently failed to investigate and monitor the payee, the provision also requires the Commissioner to re-issue benefits under Titles II, VIII and XVI in any case in which a beneficiary's funds are misused by a representative payee that is not an individual (regardless of whether it is a qualified organization such as a state/local agency or a community nonprofit social service agency) or an individual payee representing 15 or more beneficiaries.

The new provision defines misuse as any case in which a representative payee converts the benefits entrusted to his or her care for purposes other than the "use and benefit" of the beneficiary, and authorizes the Commissioner to define "use and benefit" in regulation.

In crafting a regulatory definition for "use and benefit," the Commissioner should take special care to distinguish between the situation in which the representative payee violates his or her responsibility by converting the benefits to further the payee's own self interest, and the situation in which the payee faithfully serves the beneficiary by using the benefits in a way that principally aids the beneficiary but which also incidentally aids the payee or another individual. For instance, cases in which a representative payee uses the benefits entrusted to his or her care to help pay the rent on an apartment that he or she and the beneficiary share should not be considered misuse.

The effective date applies to any cases of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995. This protects the interests of beneficiaries affected by cases of egregious misuse that have been identified in recent years.

REASON FOR CHANGE

There have been a number of highly publicized cases involving organizational rep-

resentative payees that have misused large sums of monies paid to them on behalf of the Social Security and Supplemental Security Income (SSI) beneficiaries they represented. In most instances, these organizations operated as criminal enterprises, bent not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went undetected until large sums had been stolen. If the Social Security Administration is not shown to be negligent for failing to investigate and monitor the payee, affected beneficiaries may never be repaid or may be repaid only when the representative payee committing misuse makes restitution to the SSA.

Requiring the SSA to reissue benefit payments to the victims of misuse in these cases protects beneficiaries who are among the most vulnerable, because they may have no family members or friends who are willing or able to manage their benefits for them. These are cases in which misuse of benefits may be the hardest to detect. Moreover, extending the provision to cases involving individual payees serving fewer beneficiaries may lead to fraudulent claims of misuse. These claims, which often turn on information available only from close family members, would be difficult to assess. Similarly, extension of this provision to these cases could potentially encourage misuse or poor money management by these individual representative payees, if they believe the SSA could eventually pay the beneficiary a second time.

Section 102. Oversight of Representative Payees

PRESENT LAW

Present law requires community-based nonprofit social service serving as representative payees to be licensed or bonded. Payees are not required to submit proof of bonding or licensing, and they are not subject to independent audits. In addition, there is no provision requiring periodic onsite reviews of organizational payees (other than the accountability monitoring done for State institutions that serve as representative payees).

EXPLANATION OF PROVISION

The new provision requires community-based nonprofit social service agencies serving as representative payees to be both bonded and licensed (provided that licensing is available in the State). In addition, such representative payees must submit yearly proof of bonding and licensing, as well as copies of any independent audits that were performed on the payee since the previous certification.

The new provision also requires the Commissioner of Social Security to conduct periodic onsite reviews of: (1) a person who serves as a representative payee to 15 or more beneficiaries; (2) community-based nonprofit social service agencies serving as representative payees; and (3) any agency that serves as the representative payee to 50 or more beneficiaries. In addition, the Commissioner is required to submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the reviews conducted in the prior fiscal year.

The bonding, licensing, and audit provisions are effective on the first day of the 13th month following enactment of the legislation. The periodic on-site review provision is effective upon enactment.

REASON FOR CHANGE

Strengthening the bonding and licensing requirements for community-based nonprofit social service agencies would add further safeguards to protect beneficiaries' funds. State licensing provides for some oversight by the State into the organization's business practices, and bonding provides some assur-

ances that a surety company has investigated the organization and approved it for the level of risk associated with the bond. Requiring annual certification as to the licensing and bonding of the payee, as well as submission of audits performed, should help prevent a payee from dropping their licensing or bonding subsequent to the SSA approving them as payee.

On-site periodic visits should be conducted regularly to reduce misuse of funds. To the degree possible, appropriate auditing and accounting standards should be utilized in conducting such reviews.

Section 103. Disqualification from Service as Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment for More Than One Year, or Fleeing Prosecution, Custody or Confinement.

PRESENT LAW

Sections 205, 807, and 1631 of the Social Security Act disqualify individuals from being representative payees if they have been convicted of fraudulent conduct involving Social Security programs.

EXPLANATION OF PROVISION

The new provision expands the scope of disqualification to prohibit an individual from serving as a representative payee if he or she has been convicted of an offense resulting in imprisonment for more than one year, unless the Commissioner determines that payee status would be appropriate despite the conviction. It also disqualifies persons fleeing prosecution, custody, or confinement for a felony from being representative payees. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

The new provision requires the Commissioner, in consultation with the SSA Inspector General, to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating existing procedures and reviews conducted for representative payees to determine whether they are sufficient to protect benefits from being misused.

This provision is effective on the first day of the 13th month beginning after the date of enactment, except that the report to Congress is due no later than 270 days after the date of enactment.

REASON FOR CHANGE

Prohibiting persons convicted of offenses resulting in imprisonment for more than one year and persons fleeing prosecution, custody or confinement for a felony from serving as representative payees decreases the likelihood of mismanagement or abuse of beneficiaries' funds. Also, allowing such persons to serve as representative payees could raise serious questions about the SSA's stewardship of taxpayer funds. The agency's report will assist Congress in its oversight of the representative payee program.

Section 104. Fee Forfeiture in Case of Benefit Misuse by Representative Payees

PRESENT LAW

Certain qualified organizations are authorized to collect a fee for their services. The fee, which is determined by a statutory formula, is deducted from the beneficiary's benefit payments.

EXPLANATION OF PROVISION

The new provision requires representative payees to forfeit the fee for those months during which the representative payee misused funds, as determined by the Commissioner of Social Security or a court of competent jurisdiction. This provision applies to

any month involving benefit misuse by a representative payee as determined by the Commissioner or a court of competent jurisdiction after 180 days after the date of enactment.

REASON FOR CHANGE

Payees who misuse their clients' funds are not properly performing the service for which the fee was paid; therefore, they should forfeit such fees. Permitting the payee to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's needs.

Section 105. *Liability of Representative Payees for Misused Benefits*

PRESENT LAW

Although the SSA has been provided with expanded authority to recover overpayments (such as the use of tax refund offsets, referral to contact collection agencies, notification of credit bureaus, and administrative offsets of future federal benefit payments), these tools cannot be used to recoup benefits misused by a representative payee.

EXPLANATION OF PROVISION

The new provision treats benefits misused by any representative payee (except a federal, state or local government agency) as an overpayment to the representative payee, thus subjecting the representative payee to current overpayment recovery authorities. Any recovered benefits not already reissued to the beneficiary pursuant to section 101 of this legislation would be reissued to either the beneficiary or their alternate representative payee, up to the total amount misused. This provision applies to benefit misuse by a representative payee in any case where the Commissioner of Social Security or a court of competent jurisdiction makes a determination of misuse after 180 days after the date of enactment.

REASON FOR CHANGE

Although the SSA has been provided with expanded authority to recover overpayments, these tools cannot be used to recoup benefits misused by a representative payee. Treating misused benefits as overpayments to the representative payee would provide the SSA with additional means for recovering misused payments.

Section 106. *Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting*

PRESENT LAW

The Social Security Act requires representative payees to submit accounting reports to the Commissioner of Social Security regarding how a beneficiary's benefit payments were used. A report is required at least annually, but may be required by the Commissioner at any time if the Commissioner has reason to believe the representative payee is misusing benefits.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner of Social Security to require a representative payee to receive any benefits under Titles II, VIII, and XVI in person at a Social Security field office if the representative payee fails to provide a required accounting of benefits. The Commissioner would be required to provide proper notice and the opportunity for a hearing prior to redirecting benefits to the field office. This provision is effective 180 days after the date of enactment.

REASON FOR CHANGE

Accounting reports are an important means of monitoring the activities of representative payees to prevent misuse of benefits. Redirecting benefit payments to the field office would enable the agency to

promptly address the failure of the representative payee to file a report.

Subtitle B—Enforcement

Section 111. *Civil Monetary Penalty Authority with Respect to Wrongful Conversions by Representative Payees*

PRESENT LAW

Section 1129 of the Social Security Act authorizes the Commissioner to impose a civil monetary penalty (of up to \$5,000 for each violation) along with an assessment (up to twice the amount wrongly paid), upon any person who knowingly uses false information or knowingly omits information to wrongly obtain Title II, VIII or XVI benefits.

EXPLANATION OF PROVISION

The new provision expands civil monetary penalties authority under section 1129 to include misuse of Title II, VIII or XVI benefits by representative payees. A civil monetary penalty of up to \$5,000 may be imposed for each violation, along with an assessment of up to twice the amount of misused benefits. This provision applies to violations committed after the date of enactment.

REASON FOR CHANGE

Providing authority for SSA to impose civil monetary penalties along with an assessment of up to twice the amount of misused benefits would provide the SSA with an additional means to address benefit misuse by representative payees.

TITLE II—PROGRAM PROTECTIONS

Section 201. *Civil Monetary Penalty Authority with Respect to Knowing Withholding of Material Facts*

PRESENT LAW

Section 1129 of the Social Security Act, 42 U.S.C. §1320a-8, authorizes the Commissioner of Social Security to impose civil monetary penalties and assessments on any person who makes a statement or representation of a material fact for use in determining initial or continuing rights to title II, VIII, or XVI benefits that the person knows or should know omits a material fact or is false or misleading. In order for the penalty or assessment to be imposed, the law requires an affirmative act on the part of the individual of making (or causing to be made) a statement that omits a material fact or is false or misleading.

Section 1129A, 42 U.S.C. 1320a-8a, provides administrative procedures for imposing penalties of nonpayment of title II and XVI benefits (6 months for the first violation) for making false statements.

EXPLANATION OF PROVISION

By including the phrase "or otherwise withholds disclosure of", in section 1129 and 1129A, civil monetary penalties and assessments and sanctions could also be imposed for failure to come forward and notify the SSA of changed circumstances that affect eligibility or benefit amount when that person knows or should know that the failure to come forward is misleading. This provision applies to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

REASON FOR CHANGE

Currently the SSA cannot impose civil monetary penalties and assessments on a person who should have come forward to notify the SSA of changed circumstances that affect eligibility or benefit amount, but did not. To be subject to civil monetary penalties and assessments under the current law, an individual must have made a statement that omitted a material fact or was false or misleading. Examples of the types of individuals intended to be covered under this amendment to section 1129 and 1129A include

(but are not limited to): (1) an individual who has a joint bank account with a beneficiary in which the SSA direct deposited the beneficiary's Social Security checks; upon the death of the beneficiary, this individual fails to advise the SSA of the beneficiary's death, instead spending the proceeds from the deceased beneficiary's Social Security checks; and (2) an individual who is receiving benefits under one SSN while working under another SSN.

This amendment is intended to close this loophole in the current law, but it is not intended to expand section 1129 and 1129A to include those individuals whose failure to come forward to notify the SSA was not done for the purpose of improperly obtaining or continuing to receive benefits. For instance, it is not intended that the expanded authority be used against individuals who do not have the capacity to understand that their failure to come forward is misleading.

Section 202. *Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries*

PRESENT LAW

Changes in work or earnings status can affect a Title II disability beneficiary's right to continued entitlement to disability benefits. Changes in the amount of earned income can also affect an SSI recipient's continued eligibility for SSI benefits or his or her monthly benefit amount.

The Commissioner has promulgated regulations that require Title II disability beneficiaries to report changes in work or earnings status (20 CFR §404.1588) and regulations that require SSI recipients (or their representative payees) to report any increase or decrease in income (20 CFR, §§416.704-416.714).

EXPLANATION OF PROVISION

The new provision requires the Commissioner to issue a receipt to a disabled beneficiary (or representative of a beneficiary) who reports a change in his or her work or earnings status. The Commissioner is required to continue issuing such receipts until the Commissioner has implemented a centralized computer file that would record the date on which the disabled beneficiary (or representative) reported the change in work or earnings status.

This provision requires the Commissioner to begin issuing receipts as soon as possible, but no later than one year after the date of enactment. The Committee on Ways and Means is aware that the SSA has developed software known as the Modernized Return to Work System (MRTW). This software will assist SSA employees in recording information about changes in work and earnings status and in making determinations of whether such changes affect continuing entitlement to disability benefits. The software also has the capability of automatically issuing receipts. The SSA has informed the Committee on Ways and Means that this software is already in use in some of the agency's approximately 1300 local field offices, and that the SSA expects to put it into operation in the remainder of the field offices over the next year. The Committee on Ways and Means expects that the SSA field offices that are already using the MRTW system will immediately begin issuing receipts to disabled beneficiaries who report changes in work or earnings status, and that the SSA will require the other field offices to begin issuing receipts as these offices begin using the MRTW system over the next year. For disabled Title XVI beneficiaries, if the SSA issues a notice to the beneficiary immediately following the report of earnings that details the effect of the change in income on

the monthly benefit amount, this notice would serve as a receipt.

REASON FOR CHANGE

Witnesses have testified before the Social Security Subcommittee and the Human Resources Subcommittee of the House Ways and Means Committee that the SSA does not currently have an effective system in place for processing and recording Title II and Title XVI disability beneficiaries' reports of changes in work and earnings status. Issuing receipts to disabled beneficiaries who make such reports would provide them with proof that they had properly fulfilled their obligation to report these changes.

Section 203. Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

PRESENT LAW

The "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," (PRWORA) P.L. 104-193, included provisions making persons ineligible to receive SSI benefits during any month in which they are fleeing to avoid prosecution, custody, or confinement for a felony, or if they are in violation of a condition of probation or parole. However, this prohibition was not extended to Social Security benefits under Title II.

EXPLANATION OF PROVISION

The new provision denies Social Security benefits under Title II to persons fleeing prosecution, custody or confinement for a felony, and to persons violating probation or parole. However, the Commissioner may, for good cause, pay withheld benefits. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

This provision is effective the first day of the first month that begins on or after the date that is nine months after the date of enactment.

REASON FOR CHANGE

There are concerns that Social Security benefits, not just Supplemental Security Income and other welfare benefits, are being used to aid flight from justice or other crime. The Congressional Budget Office has estimated that persons fleeing to avoid prosecution for a felony or to avoid custody or confinement after conviction for a felony, or in violation of a condition of probation or parole, will receive \$526 million in Title II Social Security benefits over the next 10 years. The Social Security Inspector General (SSA IG) recommended changing the law to prohibit fugitive felons and other criminals from receiving benefits.

The provision gives the Commissioner authority to pay withheld Title II benefits if there is "good cause." The Commissioner would be required to develop regulations within one year of the date of enactment. This "good cause" discretion is authorized for the Commissioner in cases of Title II benefits, where it was not authorized or intended for programs affected under the similar provision in PRWORA, because workers earn the right to receive benefits for themselves and their families through their career-long Title II payroll tax contributions.

The good cause exception will provide the Commissioner with the ability to pay benefits under circumstances in which the Commissioner deems withholding of benefits to be inappropriate—for example, but not limited to, situations when Social Security beneficiaries are found to be in flight from a warrant relating to a crime for which a court of competent jurisdiction finds the person not guilty, or if the charges are dismissed; if

a warrant for arrest is vacated; or if probation or parole is not revoked. In such circumstances, it is expected that the Commissioner would pay benefits withheld from the beneficiary for which he or she was otherwise eligible but for the prohibition in this provision.

In testimony received at a February 27, 2003 hearing, the Subcommittee was made aware of instances with respect to the SSI program where there may be mitigating circumstances relating to persons with outstanding warrants for their arrest. In addition, PRWORA implementing instructions have been found to vary between agencies. For example, the Department of Agriculture's Food and Nutrition Service has issued instructions that in order to be considered "fleeing," the individual must have knowledge a warrant has been issued for his or her arrest and that the State agency should verify the individual has such knowledge. In addition, once the person has knowledge of the warrant, either by having received it personally or by being advised of its existence by the State agency, he or she is technically "fleeing" at that time. Finally, the instructions strongly urge the State agency to give the individual an opportunity to submit documentation that the warrant has been satisfied. The Social Security Administration's procedures do not include such instructions.

The SSA IG is conducting an audit on implementation of the fugitive felon provision for the Supplemental Security Income program, which will shed light on the types of crimes beneficiaries committed, law enforcement's pursuit of such criminals, the length of time benefits were suspended, the SSA's handling of these cases, and other issues. The Subcommittee will continue to closely monitor these issues and encourages the Commissioner to review the agency's implementing instructions in light of these circumstances and what constitutes flight under federal law.

Section 204. Requirements Relating to Offers to Provide for a Fee a Product or Service Available Without Charge From the Social Security Administration

PRESENT LAW

Section 1140 of the Social Security Act prohibits or restricts various activities involving the use of Social Security and Medicare symbols, emblems, or references that give a false impression that an item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. It also provides for the imposition of civil monetary penalties with respect to violations of the section.

EXPLANATION OF PROVISION

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. The new provision requires persons or companies offering such services to include in their offer a statement that the services they provide for a fee are available directly from the SSA free of charge. The statements would be required to comply with standards promulgated through regulation by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility. The amendment applies to offers of assistance made after the 6th month following the issuance of these standards. The new provision requires that the Commissioner promulgate regulations within 1 year after the date of enactment.

REASON FOR CHANGE

Several individuals and companies offer Social Security services for a fee even

though the same services are available directly from the SSA free of charge. For example, the SSA's Inspector general has encountered business entities that have offered assistance to individuals in changing their names (upon marriage) or in obtaining a Social Security number (upon the birth of a child) for a fee, even though these services are directly available from the SSA for free. The offer from the business entities either did not state at all, or did not clearly state, that these services were available from the SSA for free. These practices can mislead and deceive senior citizens, newlyweds, new parents, and other individuals seeking services or products, who may not be aware that the SSA provides these services for free.

Section 205. Refusal to Recognize Certain Individuals as Claimant Representatives

PRESENT LAW

An attorney in good standing is entitled to represent claimants before the Commissioner of Social Security. The Commissioner may prescribe rules and regulations governing the recognition of persons other than attorneys representing claimants before the Commissioner. Under present law, attorneys disbarred in one jurisdiction, but licensed to practice in another jurisdiction, must be recognized as a claimant's representative.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner to refuse to recognize as a representative, or disqualifying as a representative, an attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency. Due process (i.e., notice and an opportunity for a hearing) would be required before taking such action. Also, if a representative has been disqualified or suspended as a result of collecting an unauthorized fee, full restitution is required before reinstatement can be considered. This provision is effective upon the date of enactment.

REASON FOR CHANGE

This provision would provide additional protections for beneficiaries who may rely on representatives during all phases of their benefit application process. As part of their ongoing oversight of claimant representatives, the Committee on Ways and Means intends to review whether options to establish protections for claimants represented by non-attorneys should be considered.

Section 206. Penalty for Corrupt or Forcible Interference with Administration of the Social Security Act

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

The new provision imposes a fine of not more than \$5,000, imprisonment of not more than 3 years, or both, for attempting to intimidate or impede—corruptly or by using force or threats of force—any Social Security Administration (SSA) officer, employee or contractor (including State employees of disability determination services and any individuals designated by the Commissioner) while they are acting in their official capacities under the Social Security Act. If the offense is committed by threats of force, the offender is subject to a fine of not more than \$3,000, no more than one year in prison, or both. This provision is effective upon enactment.

The Committee on Ways and Means expects that judgment will be used in enforcing this section. Social Security and SSI disability claimants and beneficiaries, in particular, are frequently subject to multiple, severe life stressors, which may include severe physical, psychological, or financial difficulties. In addition, disability claimants or

beneficiaries who encounter delays in approval of initial benefit applications or in post-entitlement actions may incur additional stress, particularly if they have no other source of income. Under such circumstances, claimants or beneficiaries may at times express frustration in an angry manner, without truly intending to threaten or intimidate SSA employees. In addition, approximately 25% of Social Security disability beneficiaries and 35% of disabled SSI recipients have mental impairments, and such individuals may be less able to control emotional outbursts. These factors should be taken into account in enforcing this provision.

REASON FOR CHANGE

This provision extends to SSA employees the same protections provided to employees of the Internal Revenue Service under the Internal Revenue Code of 1954. These protections will allow SSA employees to perform their work with more confidence that they will be safe from harm.

The Internal Revenue Manual defines the term "corruptly" as follows: "Corruptly" characterizes an attempt to influence any official in his or her official capacity under this title by any improper inducement. For example, an offer of a bribe or a passing of a bribe to an Internal Revenue employee for the purpose of influencing him or her in the performance of his or her official duties is corrupt interference with the administration of federal laws." (Internal Revenue Manual, [9.5] 11.3.2.2, 4-09-1999).

Section 207. Use of Symbols, Emblems or Names in Reference to Social Security or Medicare

PRESENT LAW

Section 1140 of the Social Security Act prohibits (subject to civil penalties) the use of Social Security or Medicare symbols, emblems and references on any item in a manner that conveys the false impression that such item is approved, endorsed or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services) or the Department of Health and Human Services.

EXPLANATION OF PROVISION

The new provision expands the prohibition in present law to several other references to Social Security and Medicare. This includes, but is not limited to, "Death Benefits Update," "Federal Benefits Information," and "Final Supplemental Plan." This provision applies to items sent after 180 days after the date of enactment.

REASON FOR CHANGE

The SSA Inspector General has found these phrases appearing in mailings, solicitations, or flyers, which, when used with the SSA's words, symbols, emblems, and references may be particularly misleading and more likely to convey the false impression that such item is approved, endorsed, or authorized by the SSA, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. Expansion of this list helps to ensure that individuals receiving any type of mail, solicitations or flyers bearing symbols, emblems or names in reference to Social Security or Medicare are not misled into believing that these agencies approved or endorsed the services or products depicted.

Section 208. Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

PRESENT LAW

An individual entitled to disability benefits under Title II is entitled to a "trial work period" to test his or her ability to work.

The trial work period allows beneficiaries to have earnings from work above a certain amount (\$570 a month in 2003) for up to 9 months (which need not be consecutive) within any 60-month period without any loss of benefits. Presently, section 222(c) of the Social Security Act does not prohibit a person entitled to disability benefits under Title II from receiving disability benefits during a trial work period, even if convicted by a federal court for fraudulently concealing work activity during that period.

The SSA's Inspector General has pursued prosecution of Title II disability beneficiaries who fraudulently conceal work activity by applying several criminal statutes, including section 208(a) of the Social Security Act, and sections 371 and 641 of Title 18 of the United States Code (Crimes and Criminal Procedures).

EXPLANATION OF PROVISION

Under the new provision, an individual convicted by a federal court of fraudulently concealing work activity from the Commissioner of Social Security would not be entitled to receive any disability benefits in any trial work period month and would be liable for repayment of those benefits, in addition to any restitution, penalties, fines or assessments otherwise due.

Under this provision, concealing work activity is considered to be fraudulent if the individual (1) provided false information to the SSA about his or her earnings during that period; (2) worked under another identity, including under another person's or a false Social Security number; or (3) took other actions to conceal work activity with the intent to receive benefits to which he or she was not entitled.

This provision is effective with respect to work activity performed after the date of enactment.

REASON FOR CHANGE

Under current law, if an individual is convicted of fraudulently concealing work activity, the dollar loss to the government is calculated based on the benefits that the individual would have received had he or she not concealed the work activity. During the trial work period, disability beneficiaries continue to receive their monthly benefit amount regardless of their work activity. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government, even if the individual fraudulently concealed work activity during that period. As a result, the dollars lost to the government may fall below the thresholds set by the United States Attorneys in cases involving fraudulent concealment of work by Title II disability beneficiaries. In such situations, the case would not be prosecuted, even if the evidence of fraud were very clear.

This provision rectifies the situation by establishing that individuals convicted of fraudulently concealing work activity during the trial work period are not entitled to receive any disability benefits for trial work period months prior to the conviction (but within the same period of disability).

Section 209. Authority for Judicial Orders of Restitution

PRESENT LAW

A court may order restitution when sentencing a defendant convicted of various offenses under titles 18, 21, and 49 of the United States Code. However, violations of the Social Security Act (42 U.S.C.) are not included among those for which the court may order restitution.

EXPLANATION OF PROVISION

This provision amends the Social Security Act to allow a federal court to order restitu-

tion to the Social Security Administration for violations of the Social Security Act. Restitution in connection with benefits misuse by a representative payee would be credited to the Social Security Trust Funds for cases involving OASDI recipients and to the General Fund for cases involving Supplemental Security Income and Special Veterans benefits. Other restitution funds, credited to a special fund established in the Treasury, would be available to defray expenses incurred in implementing title II, title VIII, and title XVI. If the court does not order restitution, or only orders partial restitution, the court must state the reason on the record. This provision is effective with respect to violations occurring on or after the date of enactment.

REASON FOR CHANGE

This provision would enhance a judge's ability to compensate the programs and punish persons convicted of violations including, but not limited to, improper receipt of Social Security payments and misuse of Social Security numbers.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS
Section 301. Cap on Attorney Representative Assessments

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires the SSA to pay attorney fees for Title II claims directly to the attorney out of the claimant's past-due benefits. The SSA charges an assessment, at a rate not to exceed 6.3% of approved attorney fees, for the costs of determining, processing, withholding, and distributing attorney fees.

EXPLANATION OF PROVISION

The new provision imposes a cap of \$75 on the 6.3% assessment on approved attorney representative fees for Title II claims. The cap is indexed annually for inflation. This provision is effective after 180 days after the date of enactment.

REASON FOR CHANGE

Testimony was given at a House oversight hearing in May 2001 on the SSA's processing of attorney representative's fees that the amount of the fee assessment is unfair to these attorneys, who provide an important service to claimants. The attorneys who receive fee payments from the agency have their gross revenue reduced by 6.3%. As a result of this revenue loss and the time it takes for the SSA to issue the fee payments to attorneys, a number of attorneys have decided to take fewer or none of these cases. The cap on the amount of the assessment would help ensure that enough attorneys remain available to represent claimants before the Social Security Administration.

The Committee on Ways and Means continues to be concerned about the agency's processing time for attorney representatives fee payments and expects the SSA to further automate the payment process as soon as possible.

Section 302. Extension of Attorney Fee Payment System to Title XVI Claims

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires attorney fees for Title II claims to be paid by the SSA directly to the attorney out of the claimant's past-due benefits (subject to an assessment to cover the SSA's costs). However, attorney fees for Title XVI claims are not paid directly by the SSA out of past-due benefits. Instead, the attorney must collect the fee from the beneficiary.

EXPLANATION OF PROVISION

The provision would extend direct fee payment to attorneys out of past-due benefits

for Title XVI claims. It would also authorize the SSA to charge a processing assessment of up to 6.3% of the approved attorney fees, subject to a cap of \$75 that is indexed for inflation.

In addition, in cases where the States would be reimbursed for interim assistance they had provided to a beneficiary awaiting a decision on a claim for SSI benefits, the State would be paid first, and the attorney would be paid second out of the past-due benefit amount.

The provision also requires the General Accounting Office to conduct a study of claimant representation in the Social Security and Supplemental Security Income programs. The study will include an evaluation of the potential results of extending the fee withholding process to non-attorney representatives.

This provision applies with respect to fees for representation that are first required to be certified or paid on or after the first day of the first month that begins after 270 days after the date of enactment. The provision would sunset with respect to respect to agreements for representation entered into after 5 years after the implementation date. The GAO report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of enactment.

REASON FOR CHANGE.

Withholding the attorney fee payments from the SSI benefit claim would improve SSI applicants' access to representation, as more attorneys would be willing to represent claimants if they are guaranteed payment.

Payment of States first and attorneys second would ensure that States providing interim assistance to individuals would not receive less reimbursement, while also providing a method of ensuring that attorneys receive payment and continue to provide representation.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Section 401. Application of Demonstration Authority Sunset Date to New Projects

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. These projects can test: (1) alternative methods of treating work activity of individuals entitled to disability benefits; (2) the alteration of other limitations and conditions that apply to such individuals (such as an increase in the length of the trial work period); and, (3) implementation of sliding scale benefit offsets. To conduct the projects, the Commissioner may waive compliance with the benefit requirements of Title II and Section 1148, and the HHS Secretary may waive the benefit requirements of Title XVIII. The Commissioner's authority to conduct demonstration projects terminates on December 17, 2004, five years after its enactment in the "Ticket to Work and Work Incentives Improvement Act of 1999" (P.L. 106-170, "Ticket to Work Act").

EXPLANATION OF PROVISION

The new provision clarifies that the Commissioner is authorized to conduct demonstration projects that extend beyond December 17, 2004, if such projects are initiated on or before that date (i.e., initiated within the five-year window after enactment of the Ticket to Work Act). This provision is effective upon enactment.

REASON FOR CHANGE

The current five-year limitation on waiver authority restricts the options that may be tested to improve work incentives and return to work initiatives, as several potential options the Commissioner may test would extend past the current five-year limit. Developing a well-designed demonstration project can require several years, and the current five-year authority might not allow sufficient time to both design the project and to conduct it long enough to obtain reliable data.

Section 402. Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. In addition, Section 302 of the Ticket to Work Act directs the Commissioner to conduct demonstration projects for the purpose of evaluating a program for Title II disability beneficiaries under which benefits are reduced by \$1 for each \$2 of the beneficiary's earnings above a level determined by the Commissioner. To permit a thorough evaluation of alternative methods, section 302 of the Ticket to Work Act allows the Commissioner to waive compliance with the benefit provisions of Title II and allows the Secretary of Health and Human Services to waive compliance with the benefit requirements of Title XVIII.

EXPLANATION OF PROVISION

The new provision allows the Commissioner to also waive requirements in Section 1148 of the Social Security Act, which governs the Ticket to Work and Self-Sufficiency Program (Ticket to Work Program), as they relate to Title II. This provision is effective upon enactment.

REASON FOR CHANGE

This additional waiver authority is needed to allow the Commissioner to effectively test the \$1-for-\$2 benefit offset in combination with return to work services under the Ticket to Work Program. Under the \$1-for-\$2 benefit offset, earnings of many beneficiaries may not be sufficient to completely eliminate benefits. However, under section 1148 of the Social Security Act, benefits must be completely eliminated before employment networks participating in the Ticket to Work Program are eligible to receive outcome payments. Therefore, employment networks are likely to be reluctant to accept tickets from beneficiaries participating in the \$1-for-\$2 benefit offset demonstration, making it impossible for the SSA to effectively test the combination of the benefit offset and these return to work services. Additionally, section 1148 waiver authority was provided for the broad Title II disability demonstration authority under section 234 of the Social Security Act, but not for this mandated project.

Section 403. Funding of Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

PRESENT LAW

The Ticket to Work Act provides that the benefits and administrative expenses of conducting the \$1-for-\$2 demonstration projects will be paid out of the Old-Age, Survivors, and Disability Insurance (OASDI) and Federal Hospital Insurance and Federal Supplementary Medical Insurance (HI/SMI) trust funds, to the extent provided in advance in appropriations act.

EXPLANATION OF PROVISION

The new provision establishes that administrative expenses for the \$1-for-\$2 dem-

onstration project will be paid out of otherwise available annually-appropriated funds, and that benefits associated with the demonstration project will be paid from the OASDI or HI/SMI trust funds. This provision is effective upon enactment.

REASON FOR CHANGE

For demonstration projects conducted under the broader Title II demonstration project authority under section 234 of the Social Security Act, administrative costs are paid out of otherwise available annually appropriated funds, and benefits associated with the demonstration projects are paid from the OASDI or HI/SMI trust funds. This provision would make funding sources for the \$1 for \$2 demonstration project under the Ticket to Work Act consistent with funding sources for other Title II demonstration projects.

Section 404. Availability of Federal and State Work Incentive Services to Additional Individuals

PRESENT LAW

Section 1149 of the Social Security Act (the Act), as added by the Ticket to Work Act, directs the SSA to establish a community-based work incentives planning and assistance program to provide benefits planning and assistance to disabled beneficiaries. To establish this program, the SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. In fulfillment of this requirement, the SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) program. BPAO projects now exist in every state.

Section 1150 of the Act authorizes the SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. Under this section, services provided by participating P&A systems may include: (1) information and advice about obtaining vocational rehabilitation (VR) and employment services; and (2) advocacy or other services that a disabled beneficiary may need to secure or regain employment. The SSA has established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

To be eligible for services under either the BPAO or PABSS programs, an individual must be a "disabled beneficiary" as defined under section 1148(k) of the Act. Section 1148(k) defines a disabled beneficiary as an individual entitled to Title II benefits based on disability or an individual who is eligible for federal SSI cash benefits under Title XVI based on disability or blindness.

EXPLANATION OF PROVISION

The new provision expands eligibility for the BPAO and PABSS programs under sections 1149 and 1150 of the Act to include not just individuals who are "disabled beneficiaries" under section 1148(k) of the Act, but also individuals who (1) are no longer eligible for SSI benefits because of an increase in earnings, but remain eligible for Medicaid under section 1619(b); (2) receive only a State supplementation payment (a payment that some States provide as a supplement to the federal SSI benefit); or (3) are in an extended period of Medicare eligibility under Title XVIII after a period of Title II disability has ended. The new provision also expands the types of services a P&A system may provide under section 1150 of the Act. Currently P&A systems may provide "advocacy or other services that a disabled beneficiary may need to secure or regain employment," while the new provision allows them to provide "advocacy or other services that a disabled beneficiary may need to secure, maintain, or regain employment."

The amendment to section 1149, which affects the BPAO program, is effective with respect to grants, cooperative agreements or contracts entered into on or after the date of enactment. The amendments to section 1150, which affect the PABSS program, are effective for payments provided after the date of the enactment.

REASON FOR CHANGE

The Committee on Ways and Means recognizes that Social Security and SSI beneficiaries with disabilities face a variety of barriers and disincentives to becoming employed and staying in their jobs. The intent of this provision, as with the Ticket to Work Act, is to encourage disabled individuals to work.

The definition of "disabled beneficiary" under section 1148(k) of the Act does not include several groups of beneficiaries, including individuals who are no longer eligible for SSI benefits because of an earnings increase but remain eligible for Medicaid under section 1619(b); individuals receiving only a State supplementation payment; and individuals who are in an extended period of Medicare eligibility. The Committee on Ways and Means believes that BPAO and PABSS services should be available to all of these disabled beneficiaries regardless of Title II or SSI payment status. Beneficiaries may have progressed beyond eligibility for federal cash benefits, but may still need information about the effects of work on their benefits, or may need advocacy or other services to help them maintain or regain employment. Extending eligibility for the BPAO and PABSS programs to beneficiaries who are receiving a State supplementation payment or are still eligible for Medicare or Medicaid, but who are no longer eligible for federal cash benefits, will help to prevent these beneficiaries from returning to the federal cash benefit rolls and help them to reach their optimum level of employment.

The Committee on Ways and Means also intends that PABSS services be available to provide assistance to beneficiaries who have successfully obtained employment but who continue to encounter job-related difficulties. Therefore, the new provision extends the current PABSS assistance (which is available for securing and regaining employment) to maintaining employment—thus providing a continuity of services for disabled individuals throughout the process of initially securing employment, the course of their being employed and, if needed, their efforts to regain employment. This provision would ensure that disabled individuals would not face a situation in which they would have to wait until they lost their employment in order to once again be eligible to receive PABSS services. Payments for services to maintain employment would be subject to Section 1150(c) of the Social Security Act. The Committee on Ways and Means will continue to monitor the implementation of PABSS programs to ensure that assistance is directed to all areas in which beneficiaries face obstacles in securing, maintaining, or regaining work.

Section 405. Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans Under the Ticket to Work and Self-Sufficiency Program

PRESENT LAW

Under section 51 of the Internal Revenue Code (IRC), employers may claim a Work Opportunity Tax Credit (WOTC) if they hire, among other individuals, individuals with disabilities who have been referred by a State vocational rehabilitation (VR) agency. For an individual to qualify as a vocational rehabilitation referral under section 51(d)(6)(B) of the IRC, the individual must be

receiving or have completed vocational rehabilitation services pursuant to: (i) "an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973;" or (ii) "a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code." (IRC, section 51(d)(6)(B)).

The WOTC is equal to 40% of the first \$6,000 of wages paid to newly hired employees during their first year of employment when the employee is retained for at least 400 work hours. As such, the maximum credit per employee is \$2,400, but the credit may be less depending on the employer's tax bracket. A lesser credit rate of 25% is provided to employers when the employee remains on the job for 120-399 hours. The amount of the credit reduces the company's deduction for the employee's wages.

The Ticket to Work Act established the Ticket to Work and Self-Sufficiency Program (Ticket to Work Program) under section 1148 of the Social Security Act. Under this program, the SSA provides a "ticket" to eligible Social Security Disability Insurance beneficiaries and Supplemental Security Income beneficiaries with disabilities that allows them to obtain employment and other support services from an approved "employment network" of their choice. Employment networks may include State, local, or private entities that can provide directly, or arrange for other organizations or entities to provide, employment services, VR services, or other support services. State VR agencies have the option of participating in the Ticket to Work Program as employment networks. Employment networks must work with each beneficiary they serve to develop an individual work plan (IWP) for that beneficiary that outlines his or her vocational goals and the services needed to achieve those goals. For VR agencies that participate in the Ticket to Work Program, the individualized written plan for employment (as specified under (i) in paragraph one above) serves in lieu of the IWP.

Under current law, an employer hiring a disabled individual referred by an employment network does not qualify for the WOTC unless the employment network is a State VR agency.

EXPLANATION OF PROVISION

The new provision allows employers who hire disabled workers through referrals by employment networks under section 1148 of the Social Security Act to qualify for the WOTC. Specifically, it provides that, for purposes of section 51(d)(6)(B)(i) of the IRC of 1986, an IWP under section 1148 of the Social Security Act shall be treated as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.

This provision is effective as if it were included in section 505 of the Ticket to Work Act.

REASON FOR CHANGE

The Ticket to Work Program was designed to increase choice available to beneficiaries when they select providers of employment services. Employers hiring individuals with disabilities should be able to qualify for the WOTC regardless of whether the employment referral is made by a public or private service provider. This amendment updates eligibility criteria for the WOTC to conform to the expansion of employment services and the increase in number and range of VR providers as a result of the enactment of the Ticket to Work Act.

Subtitle B—Miscellaneous Amendments Section 411. Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

PRESENT LAW

The Social Security Act requires the SSA to file a hearing transcript with the District Court for any SSA hearing that follows a court remand of a SSA decision.

EXPLANATION OF PROVISION

The new provision clarifies that the SSA is not required to file a transcript with the court when the SSA, on remand, issues a decision fully favorable to the claimant. This provision is effective with respect to final determinations issued (upon remand) on or after the date of enactment.

REASON FOR CHANGE

A claimant whose benefits have been denied is provided a transcript of a hearing to be used when the claimant appeals his case in Federal District court. If the Administrative Law Judge issued a fully favorable decision, then transcribing the hearing is unnecessary since the claimant would not appeal this decision.

Section 412. Nonpayment of Benefits Upon Removal From the United States

PRESENT LAW

In most cases, the Social Security Act prohibits the payment of Social Security benefits to non-citizens who are deported from the United States. However, the Act does not prohibit the payment of Social Security benefits to non-citizens who are deported for smuggling other non-citizens into the United States.

EXPLANATION OF PROVISION

The new provision requires the SSA to suspend benefits of beneficiaries who are removed from the United States for smuggling aliens. This provision applies with respect to removals occurring after the date of enactment.

REASON FOR CHANGE

Individuals who are removed from the United States for smuggling aliens have committed an act that should prohibit them from receiving Social Security benefits.

Section 413. Reinstatement of Certain Reporting Requirements

PRESENT LAW

The Federal Reports Elimination and Sunset Act of 1995 "sunsetting" most annual or periodic reports from agencies to Congress that were listed in a 1993 House inventory of congressional reports.

EXPLANATION OF PROVISION

The new provision reinstates the requirements for several periodic reports to Congress that were subject to the 1995 "sunset" Act, including annual reports on the financial solvency of the Social Security and Medicare programs (the Board of Trustees' reports on the OASDI, HI, and SMI trust funds) and annual reports on certain aspects of the administration of the Title II disability program (the SSA Commissioner's reports on pre-effectuation reviews of disability determinations and continuing disability reviews). The provision is effective upon enactment.

REASON FOR CHANGE

The reports to be reinstated provide Congress with important information needed to evaluate and oversee the Social Security and Medicare programs.

Section 414. Clarification of Definitions Regarding Certain Survivor Benefits

PRESENT LAW

Under the definitions of "widow" and "widower" in Section 216 of the Social Security Act, a widow or widower must have been

married to the deceased spouse for at least nine months before his or her death in order to be eligible for survivor benefits.

EXPLANATION OF PROVISION

The new provision creates an exception to the nine-month requirement for cases in which the Commissioner finds that the claimant and the deceased spouse would have been married for longer than nine months but for the fact that the deceased spouse was legally prohibited from divorcing a prior spouse who was institutionalized due to mental incompetence or similar incapacity. The provision is effective for benefit applications filed after the date of enactment.

REASON FOR CHANGE

This provision allows the Commissioner to issue benefits in certain unusual cases in which the duration of marriage requirement could not be met due to a legal impediment over which the individual had no control and the individual would have met the legal requirements were it not for the legal impediment.

Section 415. Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings are Subject to the Laws of a Totalization Agreement Partner

PRESENT LAW

In cases where there is an agreement with a foreign country (i.e., a totalization agreement), a worker's earnings are exempt from United States Social Security payroll taxes when those earnings are subject to the foreign country's retirement system.

EXPLANATION OF PROVISION

The new provision clarifies the legal authority to exempt a worker's earnings from United States Social Security tax in cases where the earnings were subject to a foreign country's retirement system in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions on those earnings. The provision establishes that such earnings are exempt from United States Social Security tax whether or not the worker elected to make contributions to the foreign country's retirement system.

The provision is effective upon enactment.

REASON FOR CHANGE

In U.S. totalization agreements, a person's work is generally subject to the Social Security laws of the country in which the work is performed. In most cases, the worker (whether subject to the laws of the United States or the other country) is compulsorily covered and required to pay contributions in accordance with the laws of that country. In some instances, however, work that would be compulsorily covered in the U.S. is excluded from compulsory coverage in the other country (such as Germany). In such cases, the IRS has questioned the exemption from U.S. Social Security tax for workers who elect not to make contributions to the foreign country's retirement system. This provision would remove any question regarding the exemption and would be consistent with the general philosophy behind the coverage rules of totalization agreements.

Section 416. Coverage Under Divided Retirement System for Public Employees in Kentucky

PRESENT LAW

Under Section 218 of the Social Security Act, a State may choose whether or not its State and local government employees who are covered by a public pension may also participate in the Social Security Old-Age, Survivors, and Disability Insurance program. (In this context, the term "public pension plan" refers to a pension, annuity, retirement, or similar fund or system established by a State or a political subdivision of a

State such as a town. Under current law, State or local government employees not covered by a public pension plan are, with a few exceptions, required to pay Social Security payroll taxes.)

Social Security coverage for employees covered under a State or local government public pension plan is established through an agreement between the State and the federal government. All States have the option of electing Social Security coverage for employees by a majority vote in a referendum. If the majority vote is in favor of Social Security coverage, then the entire group, including those voting against such coverage, will be covered by Social Security. If the majority vote is against Social Security coverage, then the entire group, including those voting in favor of such coverage and employees hired after the referendum, will not be covered by Social Security.

In certain States, however, there is an alternative method for electing Social Security coverage. Under this method, rather than the majority of votes determining Social Security coverage for the whole group, employees voting in the referendum may individually determine whether they want Social Security coverage, provided that all newly hired employees of the system are required to participate in Social Security. After the referendum, the retirement system is divided into two groups, one composed of members who elected Social Security coverage plus those hired after the referendum, and the other composed of those who did not elect Social Security coverage. Under Section 218(d)(6)(c) of the Social Security Act, 21 states currently have authority to operate such a divided retirement system.

EXPLANATION OF PROVISION

The new provision permits the state of Kentucky to join the 21 other states in being able to offer a divided retirement system. This system would permit current state and local government workers in a public pension plan to elect Social Security coverage on an individual basis. Those who do not wish to be covered by Social Security would continue to participate exclusively in the public pension plan. This provision is effective retroactively to January 1, 2003.

REASON FOR CHANGE

The governments of the City of Louisville and Jefferson County merged in January 2003, and formed a new political subdivision. Under the provision, once the new political subdivision holds a referendum on Social Security coverage among its employees, each employee would choose whether or not to participate in the Social Security system in addition to their public pension plan. All employees newly hired to the system after the divided system is in place would be covered automatically under Social Security.

Currently, some employees of the new government are covered under Social Security, while others are not. In order to provide fair and equitable coverage to all employees, a divided retirement system, such as that currently authorized in 21 other states, was seen as the best solution. It would allow those who want to keep Social Security coverage or obtain Social Security coverage to do so, without requiring other current employees to participate in Social Security as well.

Without this provision, upon holding a referendum on Social Security coverage, a majority of votes would determine whether or not the group would participate in Social Security. Since the number of non-covered employees exceeds the number of Social Security-covered employees in the new government, those employees currently covered by Social Security could lose that coverage. The Kentucky General Assembly has adopted a bill that will allow the new divided retire-

ment system to go forward following enactment of this provision.

Section 417. Compensation for the Social Security Advisory Board

PRESENT LAW

The Social Security Advisory Board is an independent, bipartisan Board established by the Congress under section 703 of the Social Security Act. The 7-member board is appointed by the President and the Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs. Section 703(f) of the Social Security Act provides that members of the Board serve without compensation, except that, while engaged in Board business away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government who are employed intermittently.

EXPLANATION OF PROVISION

The new provision establishes that compensation for Social Security Advisory Board members will be provided, at the daily rate of basic pay for level IV of the Executive Schedule, for each day (including travel time) during which the member is engaged in performing a function of the Board. This provision is effective on January 1, 2003.

REASONS FOR CHANGE

Other government advisory boards—such as the Employee Retirement Income Security Act Advisory Council, the Pension Benefit Guaranty Corporation Advisory Committee and the Thrift Savings Plan Board—provide compensation for their members. This provision allows for similar treatment of Social Security Advisory Board members with respect to compensation.

Section 418. 60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

PRESENT LAW

The Government Pension Offset (GPO) was enacted in order to equalize treatment of workers in jobs not covered by Social Security and workers in jobs covered by Social Security, with respect to spouse and survivor benefits. Where what is known as the "dual-entitlement" rule reduces a spouse or survivor benefit dollar-for-dollar by the worker's own Social Security retirement or disability benefit, the GPO reduces the Social Security spouse or survivor benefit by two-thirds of the government pension.

However, under what's known as the "last day rule," State and local government workers are exempt from the GPO if, on the last day of employment, their job was covered by Social Security. In contrast, Federal workers who switched from the Civil Service Retirement System (CSRS), a system that is not covered by Social Security, to the Federal Employee Retirement System (FERS), a system that is covered by Social Security, must work for 5 years under FERS in order to be exempt from the GPO.

EXPLANATION OF PROVISION

The new provision requires that State and local government workers be covered by Social Security during their last 5 years of employment in order to be exempt from the GPO. The provision is effective for applications filed on or after the first day of the first month after the date of enactment. However, the provision would not apply to individuals whose last day of employment for the State or local governmental entity occurred before the end of the 90-day period following the date of enactment. It would also not apply to person whose last day of

employment occurred after the end of the 90-day period following the date of enactment, if during the 90-day period following the date of enactment the person's job was covered by Social Security and remained so until their last day of employment.

REASON FOR CHANGE

In August 2002, the GAO published a report titled "Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered" (GAO-02-950). At the request of Committee on Ways and Means, Subcommittee on Social Chairman E. Clay Shaw, Jr., the GAO investigated use of the "last day" exemption to avoid being subject to the GPO. The investigation found that over 4,800 individuals in Texas and Georgia used the last day exemption, with over 3,500 in Texas using it in 2002.

In testimony provided to the Subcommittee on Social Security February 27, 2003, the GAO stated that the exemption "allows a select group of individuals with a relatively small investment of work time and only minimal Social Security contributions to gain access to potentially many years of full Social Security spousal benefits." GAO also clarified in testimony that a spouse who worked in the private sector, paid payroll taxes for an entire career, and earned a Social Security retirement or disability benefit as a worker would not receive a full spousal benefit. The GAO stated that current usage of last day exemption could cost the Social Security trust funds \$450 million, and that considering the potential for abuse of the exemption and the likelihood of increased use, timely action is needed. This provision to conform their treatment to that of federal workers was among the recommendations provided by the GAO to address potential abuse of the exemption. A provision addressing the GPO last-day exemption was also included in President Bush's budget request for 2004.

Subtitle C—Technical Amendments

Section 421. *Technical Correction Relating to Responsible Agency Head*

PRESENT LAW

Section 1143 of the Social Security Act directs "the Secretary of Health and Human Services" to send periodic Social Security Statements to individuals.

EXPLANATION OF PROVISION

The new provision makes a technical correction to this section by inserting a reference to the Commissioner of Social Security in place of the reference to the Secretary of Health and Human Services. This provision is effective upon enactment.

REASON FOR CHANGE

The "Social Security Independence and Program Improvements Act of 1994" (P.L. 103-296) made the Social Security Administration an independent agency separate from the Department of Health and Human Services. This provision updates Section 1143 to reflect that change.

Section 422. *Technical Correction Relating to Retirement Benefits of Ministers*

PRESENT LAW

Section 1456 of the "Small Business Job Protection Act of 1996" (P.L. 104-188) established that certain retirement benefits received by ministers and members of religious orders (such as the rental value of a parsonage or parsonage allowance) are not subject to Social Security payroll taxes under the Internal Revenue Code. However, under Section 211 of the Social Security Act, these retirement benefits are treated as net earnings from self-employment for the purpose of acquiring insured status and calculating Social Security benefit amounts.

EXPLANATION OF PROVISION

The new provision makes a conforming change to exclude these benefits received by retired clergy from Social Security-covered earnings for the purpose of acquiring insured status and calculating Social Security benefit amounts. This provision is effective for years beginning before, on, or after December 31, 1994. This effective date is the same as the effective date of Section 1456 of P.L. 104-188.

REASON FOR CHANGE

P.L. 104-188 provided that certain retirement benefits received by ministers and members of religious orders are not subject to payroll taxes. However, a conforming change was not made to the Social Security Act to exclude these benefits from being counted as wages for the purpose of acquiring insured status and calculating Social Security benefit amounts. This income is therefore not treated in a uniform manner. This provision would conform the Social Security Act to the Internal Revenue Code with respect to such income.

Section 423. *Technical Correction Relating to Domestic Employment*

PRESENT LAW

Present law is ambiguous concerning the Social Security coverage and tax treatment of domestic service performed on a farm. Domestic employment on a farm appears to be subject to two separate coverage thresholds (one for agricultural labor and another for domestic employees).

EXPLANATION OF PROVISION

The new provision clarifies that domestic service on a farm is treated as domestic employment, rather than agricultural labor, for Social Security coverage and tax purposes. This provision is effective upon enactment.

REASON FOR CHANGE

Prior to 1994, domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural labor. According to the SSA, in 1994, when congress amended the law with respect to domestic employment, the intent was that domestic employment on a farm would be subject to the coverage threshold for domestic employees instead of the threshold for agricultural labor. However, the current language is unclear, making it appear as if farm domestics are subject to both threshold.

Section 424. *Technical Correction of Outdated References*

PRESENT LAW

Section 202(n) and 211(a)(15) of the Social Security Act and Section 3102(a) of the Internal Revenue Code of 1986 each contain outdated references that relate to the Social Security program.

EXPLANATION OF PROVISION

The new provision corrects outdated references in the Social Security Act and the Internal Revenue Code by: (1) in Section 202(n) of the Social Security Act, updating references respecting removal from the United States; (2) in Section 211(a)(15) of the Social Security Act, correcting a citation respecting a tax deduction related to health insurance cost of self-employed individuals; and (3) in Section 3102(a) of the Internal Revenue Code of 1986, eliminating a reference to an obsolete 20-day agricultural work test. This provision is effective upon enactment.

REASON FOR CHANGE

Over the years, provisions in the Social Security Act, the Internal Revenue Code and other related laws have been deleted, re-designated or amended. However, necessary conforming changes have not always been made.

Consequently, Social Security law contains some outdated references.

Section 425. *Technical Correction Respecting Self-Employment Income in Community Property States*

PRESENT LAW

The Social Security Act and the Internal Revenue Code provide that, in the absence of a partnership, all self-employment income from a trade or business operated by a married person in a community property State is deemed to be the husband's unless the wife exercises substantially all of the management and control of the trade or business.

EXPLANATION OF PROVISION

Under the new provision, self-employment income from a trade or business that is not a partnership, and that is operated by a married person in a community property State, is taxed and credited to the spouse who is carrying on the trade or business. If the trade or business is jointly operated, the self-employment income is taxed and credited to each spouse based on their distributive share of gross earnings. This provision is effective upon enactment.

REASON FOR CHANGE

Present law was found to be unconstitutional in several court cases in 1980. Since then, income from a trade or business that is not a partnership in a community property State has been treated the same as income from a trade or business that is not a partnership in a non-community property State—it is taxed and credited to the spouse who is found to be carrying on the business.

This change will conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States.

LETTERS OF SUPPORT RECEIVED FOR H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

DISABILITY ADVOCATES

National Alliance for the Mentally Ill, Consortium for Citizens with Disabilities.

ATTORNEY ORGANIZATIONS

National Organization of Social Security Claimants' Representatives.

ADMINISTRATIVE LAW JUDGES

Association of Administrative Law Judges.

LAW ENFORCEMENT

Grand Lodge Fraternal Order of Police, Fraternal Order of Police, Louisville Lodge 6.

Long Beach, CA Police—Chief of Police, Wayne County, MI (includes Detroit)—Sheriff.

Chartiers Township Police—Houston, PA—Chief of Police.

Borough of Churchill Police—Pittsburgh, PA—Chief of Police.

Brecknock Township Police—Mohnton, PA—Chief of Police.

Milton, PA Police—Chief of Police.

AARP,

Washington, DC, March 5, 2003.

Hon. ROBERT MATSUI, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MATSUI: On behalf of AARP and its 35 million members, I wish to commend you and Representative Shaw for introducing H.R. 743, the "Social Security Program Protection Act of 2003." This comprehensive legislation is important to claimants, beneficiaries and the overall Social Security program.

We are pleased that the legislation would protect beneficiaries against abuses by representative payees. For many years, AARP recruited volunteers as representative payees so that Social Security beneficiaries who

needed a representative payee but could not find one would not lose any benefits. These programs were quite successful but were limited in scope.

AARP has had a longstanding interest in curbing deceptive mailings targeted at older Americans. This legislation builds upon prior legislation and could discourage other mailers from scaring older people about their Social Security and Medicare benefits.

The legislation would strengthen the Ticket to Work Act and conduct pilot projects to improve work incentives for those with a disability. These changes would send a strong signal that our society values the contributions of all its citizens.

Thank you again for your leadership in moving H.R. 743 in the House.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

NAMI,
Arlington, VA, March 3, 2003.

Hon. E. CLAY SHAW,
Chairman, Subcommittee on Social Security,
Committee on Ways & Means, House of Representatives,
Washington, DC.

DEAR CHAIRMAN SHAW: On behalf of the 220,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI) I am writing to offer our support and urge swift House consideration of HR 743, the Social Security Protection Act of 2003. As the nation's largest organization representing individuals with severe mental illnesses and their families, NAMI urges the House to pass this bipartisan legislation to protect the interests of vulnerable beneficiaries of Social Security's disability income and support programs.

HR 743 is the product of near universal bipartisan support. This legislation contains many long overdue protections for the most disabled and vulnerable Americans and their families. As you know, individuals with severe mental illnesses represent a large and growing percentage of Social Security's cash assistance benefit programs (SSI and SSDI). The beneficiary protections and program integrity provisions in HR 743 will help ensure that the performance of the SSI and SSDI programs improve. Of particular to NAMI are the sections in HR 743 that will provide badly needed protections for recipients whose benefits are mishandled or fraudulently diverted by institutional representative payees. NAMI is especially supportive of these protections given the high percentage of SSI beneficiaries with severe persistent mental illnesses who receive benefits through a representative payee.

NAMI is also pleased with provisions in HR 743 that will require Social Security to issue receipts to SSDI beneficiaries when they forward earnings reports to agency. This new protection will be of tremendous help to SSDI beneficiaries seeking to use the Trial Work Period program to re-enter the workforce. Finally, NAMI is pleased that HR 743 contains needed technical corrections to improve with the implementation of the 1999 Ticket to Work and Work Incentives Improvement Act (TWWIIA).

HR 743 is the product of years of bipartisan work. Similar legislation passed the House 425-0 and cleared the Senate without dissent in the 107th Congress. In NAMI's view, the House should act swiftly in 2003 to pass this important legislation that everyone agrees is needed to protect people with severe disabilities that rely on SSI and SSDI benefits for their most basic needs.

Sincerely,

RICHARD C. BIRKEL, Ph.D.,
Executive Director.

CONSORTIUM FOR
CITIZENS WITH DISABILITIES,
Washington, DC, March 4, 2003.

Hon. E. CLAY SHAW,
Hon. ROBERT MATSUI,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVES SHAW AND MATSUI: On behalf of the Consortium for Citizens with Disabilities Task Forces on Social Security and Work Incentives Implementation, we are writing to express our support for the speedy passage of H.R. 743, the Social Security Protection Act of 2003.

We appreciate the hard work and the perseverance of the Subcommittee on Social Security in addressing this important legislation over the course of two Congresses and again in this 108th Congress. Your leadership and commitment last year resulted in the passage of the Social Security Program Protection Act of 2002, H.R. 4070, in the House by a vote of 425 to 0. Clearly, the issues addressed in the bipartisan Social Security Protection Act are important to people with disabilities who must depend on the Title II and Title XVI disability programs. We urge House passage of H.R. 743.

H.R. 743 is a very important bill for people with disabilities. We believe that it should be enacted as soon as possible. People with disabilities need the protections of the representative payee provisions. People with disabilities who are attempting to work need the statutory changes to the Ticket to Work program in order to better utilize the intended work incentive provisions enacted in 1999. In addition, beneficiaries with disabilities need the provision requiring the Social Security Administration to issue written receipts, and to implement a centralized computer file record, whenever beneficiaries report earnings or a change in work status. These important provisions have not been controversial—in fact, they have enjoyed significant bipartisan support—and have simply fallen prey to the legislative process over the last two Congresses. We appreciate your interest in moving H.R. 743 quickly so that these important protections can become available to beneficiaries as soon as possible.

One of the most important sections of H.R. 743 for people with disabilities is the section dealing with improved protections for beneficiaries who need representative payees. Approximately 6 million Social Security and Supplemental Security Income beneficiaries have representative payees, often family members or friends, who receive the benefits on their behalf and have a responsibility to manage the benefits on behalf of the beneficiaries.

H.R. 743 includes important provisions strengthening SSA's ability to address abuses by representative payees. The provisions would:

Require non-governmental fee-for-services organizational representative payees to be bonded and licensed under state or local law;

Provide that when an organization has been found to have misused an individual's benefits, the organization would not qualify for the fee;

Allow SSA to re-issue benefits to beneficiaries whose funds had been misused;

Allow SSA to treat misused benefits as "overpayments" to the representative payee, thereby triggering SSA's authority to recover the money through tax refund offsets, referral to collection agencies, notifying credit bureaus, and offset of any future federal benefits/payments; and

Require monitoring of representative payees, including monitoring of organizations over a certain size and government agencies serving as representative payees.

In addition, H.R. 743 would extend the direct payment of attorneys fees in SSI cases on a voluntary basis. Advocates believe that

such a program will make legal representation more accessible for people with disabilities who need assistance in handling their cases as they move through the extremely complex disability determination and appeals systems.

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security and Work Incentives Implementation Task Forces focus on disability policy issues in the Title XVI Supplemental Security Income program and the Title II disability programs. We look forward to the House passage and final enactment of H.R. 743.

Sincerely,

Co-chairs, Social Security and Work
Incentives Implementation Task Forces

MARTY FORD
The Arc and UCP Public Policy Collaboration.

ETHEL ZELENESKE
National Organization of Social Security
Claimants' Representatives.

CHERYL BATES-HARRIS
National Association of Protection and
Advocacy Systems.

SUSAN PROKOP
Paralyzed Veterans of America.

MELANIE BRUNSON
American Council of the Blind.

PAUL SEIFERT
International Association of Psychosocial
Rehabilitation Services.

NATIONAL ORGANIZATION OF SOCIAL
SECURITY CLAIMANTS' REPRESENTATIVES,

Midland Park, NJ, February 26, 2003.

Hon. E. CLAY SHAW, Jr.,
Subcommittee on Social Security, Committee on
Ways and Means, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Organization of Social Security Claimants' Representatives ("NOSSCR"), we offer our support for the important goals of H.R. 743, the Social Security Protection Act of 2003.

Specifically, we support the protections in Title I for beneficiaries who have representative payees and support provisions which, for the first time, require the Social Security Administration to issue receipts to beneficiaries when they report earnings or a change in work status. Additionally, Title III of this measure contains two important provisions NOSSCR strongly supports. These provisions are designed to ensure access to legal representation for those Social Security and Supplemental Security Income ("SSI") claimants who seek to be represented as they pursue their claims and appeals. First, the bill limits the assessment of the user fee to \$75.00 or 6.3 percent, whichever is lower. Second, the bill extends the current Title II fee withholding and direct payment procedure to the Title XVI program, giving SSI claimants the same access to representation as is currently available to Social Security disability claimants. Together, these provisions make changes that will help claimants obtain representation as they navigate what can often be confusing and difficult process.

We are dismayed, however, by the addition of a sunset provision for the extension of withholding to the Title XVI program. Enactment of an attorneys' fee payment system with an "end date" will undercut its very purpose: to enable more SSI claimants seeking a lawyer to hire one. The sunset provision shortchanges SSI claimants who desire legal representation. We are not aware

of any policy justification for this provision, and we urge its deletion from the bill.

NOSSCR appreciates your continued interest in improving the Social Security and SSI programs and ensuring the best possible service delivery. We look forward to your Subcommittee's consideration of this legislation.

Very truly yours,

NANCY G. SHOR,
Executive Director.

ASSOCIATION OF
ADMINISTRATIVE LAW JUDGES,
Milwaukee, WI, February 28, 2003.

Re: The Social Security Protection Act of 2003 (HR 743).

Hon. CLAY SHAW, Jr.,
Chairperson, Subcommittee on Social Security,
Washington, DC.

DEAR CHAIRPERSON SHAW: I write on behalf of the Association of Administrative Law Judges. We represent about 1000 administrative law judges in the Social Security Administration and in the Department of Health and Human Services which comprise about 80% of the administrative law judges in the Federal government. I am writing in regard to H.R. 743, a bill to provide additional safeguards for Social Security and Supplement Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

We support the goals of H.R. 743. In particular, we support the attorney fee payment system improvements provided for in the bill, but we believe that the legislation should not include any "sunset" provisions. We further support the provisions in the legislation for the elimination of transcript requirements in remand cases fully favorable to the claimant.

We also favor the provision in the legislation that directs the Social Security Administration to issue receipts to acknowledge submissions of earnings by beneficiaries.

Thank you for your work on this important legislation.

Sincerely,

RONALD G. BERNOSKI,
President.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, January 10, 2003.

Hon. RON LEWIS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our strong support for H.R. 134, which would add Kentucky to the list of those States permitted to operate a separate retirement system for certain public employees.

As you know, in November of 2000, the citizens of Jefferson County and the City of Louisville, Kentucky voted to merge their communities and respective governments into a single entity, known as Greater Louisville. This merger went into effect on 6 January 2003. Jefferson County and the City of Louisville operated two very different retirement programs for their police officers and, now that the merger has occurred, Federal law requires the new government to offer a single retirement plan. We share your concern that this requirement may dramatically increase the cost of retirement for the public safety officers who now serve Greater Louisville, and thus jeopardize the retirement security of many of the community's police, fire, and emergency personnel.

The Kentucky State Lodge of the Fraternal Order of Police has been successful in its effort in the State's General Assembly and now need the Federal government to act

by adding Kentucky to the list of twenty-one (21) States permitted to operate what is known as, a "divided retirement system." This will allow the police officers of Greater Louisville to decide for themselves whether or not they want to participate in Social Security or remain in their traditional retirement plan. While future employees will be automatically enrolled in Social Security, no current officers would be forced into a new retirement system as a result of the merger.

It is critical that the Congress act quickly on this matter. The F.O.P. is ready to assist you in getting this bill through the House expeditiously.

On behalf of the more than 300,000 members of the Fraternal Order of Police, I want to thank you for your hard work on this effort. Please let us know how we can be of further assistance by contacting me or Executive Director Jim Pasco through my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

FRATERNAL ORDER OF POLICE,
LOUISVILLE LODGE 6,
Louisville, KY, February 19, 2003.

Hon. RON LEWIS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the members of Fraternal Order of Police, Louisville Lodge #6. We want to advise you of our support for HR 134. We believe that this bill would add Kentucky to the list of those States permitted to operate a separate retirement system for certain public employees.

As I am sure you are aware that last November our community voted to unite Jefferson County and the City of Louisville, Kentucky. We have a newly formed entity known as Greater Louisville. This merger was effective January 6th 2003. Jefferson County and the City of Louisville are now operating on two very different retirement systems in respect to their police officers. Now that the merger has taken effect, Federal law requires the new government to offer one single retirement plan for everyone.

The Kentucky State F.O.P. Lodge has been successful in its effort in the State's General Assembly and now need the Federal Government to act by adding Kentucky to the list of twenty-one (21) States permitted to operate what is known as a "divided retirement system." This will give every police officer the choice whether to participate in Social Security or remain in their current/traditional retirement plan.

We believe that it is critical and important that Congress act on this matter as quickly as possible. On behalf of our membership, we wish to thank you for your efforts with this matter. Please let us know if we can be of any assistance in the future.

Sincerely,

DAVID JAMES,
President.

CITY OF LONG BEACH
POLICE DEPARTMENT,
Long Beach, CA, February 27, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: It has come to my attention that you will soon be holding hearings on House of Representatives Bill 743. I am writing to let you know that I fully support this Bill, especially as it relates to expanding the denial of Social Security benefits to all of those who are fugitives from justice.

My department has worked successfully with the Social Security Administration's Office of the Inspector General (SSA OIG) in apprehending fugitives who collect Supplemental Security Income payments. By working with the SSA OIG to remove a source of income for the fugitive, law enforcement departments like mine are finding it easier to locate and apprehend fugitives.

I urge you to fully support the provisions of H.R. 743 that make all fugitives ineligible for any type of Social Security benefit from the United States Government.

Sincerely,

ANTHONY W. BATTS,
Chief of Police.

OFFICE OF THE SHERIFF,
WAYNE COUNTY,

Detroit, MI, February 25, 2003.

Subject: House Bill HR 473.

Hon. E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: I would like to take this opportunity to officially endorse and support House Bill HR 473 that provides for the expansion of the Fugitive Felons Project to include the Title II program. My department works closely with the Social Security Inspector General's office in identifying Title 16 SSI welfare recipients who are fugitive felons and are residents of Wayne County.

Over the past two years several hundred fugitive felons have been arrested because of the close working relationship between the Sheriff's Department and the Social Security Inspector General's office. By expanding the fugitive felon provision to include the Title II program, I believe the number of arrests will increase significantly.

If I may be of assistance to you in this matter, please contact me at (313) 224-2233.

Sincerely yours,

WARREN C. EVANS,
Sheriff.

CHARTIERS TOWNSHIP
POLICE DEPARTMENT,
Houston, PA, February 26, 2003.

Congressman E. CLAY SHAW Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN E. CLAY SHAW Jr.: I am writing you today, to strongly endorse House Bill #473. I would especially endorse Section 203 that covers the Title II Fugitive Felons expansion. I believe Law Enforcement efforts would be greatly enhanced by its passage.

Sincerely,

JAMES M. HORVATH,
Chief.

THE BOROUGH OF CHURCHILL
POLICE DEPARTMENT,
Pittsburgh, PA, February 28, 2003.

To: Congressman E. Clay Shaw Jr.
Subject: Endorsement for H.R. 743.

I am writing to show my support for the above bill. I believe that it would be in the best interest of the American public to give this tool to Law Enforcement officials. I believe that it will help up in the investigation of Terrorists.

RICHARD H. JAMES,
Chief of Police.

BRECKNOCK TOWNSHIP
POLICE DEPARTMENT,
Mohnton, PA, February 27, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: I would like to take this opportunity to endorse the expansion of the Fugitive Felons Project to include the Title II program in Section 203 of

HR 473. It will be another valuable tool in the fight against crime.

Thank you for your consideration.

JOHN V. MINTZ,
Chief of Police.

MILTON POLICE DEPARTMENT,
Milton, PA, February 25, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington,
DC.

DEAR CONGRESSMAN SHAW Jr.: This letter is in support of your efforts under House Bill H.R. 743, amending the Social Security Act and the Internal Revenue Code of 1986. This should provide law enforcement at all levels a powerful tool in the location of fugitives from justice. On many occasions in my law enforcement experience I have found persons receiving benefits of the Social Security System while outstanding warrants or other paper was pending on them.

Thank you for your introduction of this needed legislation.

Sincerely yours.

PAUL YOST,
Chief.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a valued member of the subcommittee.

Mr. HERGER. Mr. Speaker, I rise in support of the Social Security Program Protection act. I would like to thank Chairman SHAW and the other members of the Committee on Ways and Means who have worked tirelessly to improve Social Security programs that provide a crucial safety net for many of our Nation's neediest disabled and elderly individuals. These changes have been designed to ensure that the right benefits go to the right people, a principle which should guide our efforts on behalf of the taxpayers we serve.

I am especially pleased that the bill before us includes a provision designed to keep convicted fugitive felons from getting Social Security checks. These efforts built upon the criminal welfare prevention provisions which I introduced and which were enacted into law more than 3 years ago. By all accounts, these laws have been effective in stopping illegal, fraudulent Social Security payments to prisoners.

We have also stopped hard-earned taxpayer dollars from being used to subsidize addicts with disability checks. Overall, we have saved the taxpayers and beneficiaries literally billions of dollars.

Other provisions in the legislation before us, such as granting the Social Security Administration the tools it needs to weed out waste and fraud, will further protect vulnerable beneficiaries.

Mr. Speaker, this bill passed with overwhelming bipartisan support in the last Congress. I urge all my colleagues to join me today in supporting it once again.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today to express my strong opposition to section 418 of the Social Security Protection Act.

Under section 418, an individual would be required to work in a Social Security-covered job for his or her last 5 years of employment to be exempt from the GPO. Both the increase in time and the offset itself are absolutely ridiculous.

Under a provision of current law, known as the "last day rule," an individual is exempt from GPO if he or she worked in a job that was covered by Social Security on the last day of employment. According to the GAO, extending the employment requirement to 5 years will save only \$18 million per year, greatly to the detriment of public workers, especially our school teachers.

Section 418 was not included in the version of this legislation that the House passed, with my support, during the 107th Congress. This is not the same bill as last year. I support the other provisions of this legislation, but cannot support H.R. 743 as introduced. Technical corrections are necessary. This is a correction that will strike at the very heart of public school teachers in Texas and public employees in other parts of the country.

Mr. Speaker, I hope this legislation will finally focus Congress' attention on the need to repeal the government pension offset. I urge the Committee on Ways and Means to examine the GPO and its harmful impact on seniors in my district and all across the country.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), another valued member of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the subcommittee for yielding me this time, and I rise in strong support of the Social Security Protection Act of 2003.

Now, the gentleman who preceded me in the well, the gentleman from California, spoke of the initiatives this committee and this House adopted to crack down on fraud and abuse, specifically the abuse of Social Security payments going to convicted felons. We have a chance now to expand that, to deny fugitive felons and payroll violators from receiving Social Security benefits and help individuals with disabilities.

This is the key thing for me, my colleagues, because so many folks in the Fifth Congressional District of Arizona have come to me to extol the virtues of something this Congress did back in 1999, as we put people back to work with our Ticket to Work incentives that year. And while we have granted tickets to work across the country to emphasize the ability in disability and put people back to work, an important piece of clarifying language is in this provision. It clarifies that the Work Opportunity Tax Credit would be available to employers who hire a disabled beneficiary who is referred from any employment network, not just the State rehabilitation agency.

So we actually expand the pool of people who can go to work and add further incentives in our Ticket to Work. So, on one hand, if we are talking about Social Security protection, we move to bar those who would take advantage of fraud and abuse. We crack down there. And yet for the most deserving among us, people who genuinely want to get back in the workforce, who have been met with limitations heretofore, we expand their opportunities to find work. We expand the opportunities for those who are willing to put them to work.

It creates the type of balance necessary. It is the ideal type of perfecting and expanding legislation that is meant when we say we step up to protect this vital program. It shows reasoned balance and perfection in what is all too often an imperfect world as we strive to further strengthen and protect and perfect our process of Social Security.

If nothing else were there but this expansion of the Work Opportunity Tax Credit and the Ticket to Work Program, I would stand in favor of this bill. But it does so much more. I would invite all of my friends in the House to join us in supporting this legislation.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from the State of Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time and for all of his good work.

I am particularly saddened today, Mr. Speaker, that I have to come to the floor and vigorously oppose this legislation because just last year, 2002, I enthusiastically supported the Social Security Act of 2002 for the very reason that we do need to fix some of the abuses and we need to respond to the needs of shoring up Social Security.

But the Texas branch of our teachers association has characterized this hidden provision in 418 as a poison pill for Texas school employees—hardworking teachers and others who are working in our school districts lose their benefits. Many school districts offer teachers non-Social Security government pensions. So, until now, many teachers have been forced to take advantage of the last day option. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits.

This is a ridiculous system and the appropriate way to fix it would have been to repeal the GPO. In fact, I have cosponsored H.R. 594, with my colleague, the gentleman from California (Mr. MCKEON), and 132 others, just to do that. This bill closes the option to protect those hardworking teachers.

For example, I received a call from one woman in my district who was a teacher earlier in her life. She wanted to come back today and help the teachers to teach the children to the system.

But as a widow she cannot do so because of this terrible structure in our Social Security legislation.

Mr. Speaker, this is a bad bill that has this hidden provision. It will hurt teachers, firefighters, and police persons and I ask my colleagues to vote against it.

Mr. Speaker, I am saddened to come to the floor today to speak out against H.R. 743, The Social Security Protection Act of 2003. Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in their government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to \$5000 if they knowingly provided false or misleading information.

For further protection, representative payees for over 15 individuals would be required to be licensed and bonded, and would be subject to periodic reviews. The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program.

The bill passed unanimously in the House last Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of last year. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as "poison for Texas school employees." That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the "last day rule," an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so until now many teachers have been forced to take advantage of the "last day" option. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK McKEON, and 132 others to do just that.

Instead, the bill before us today closes the option. I am usually all for saving money, but now is no time to be "sticking-it" to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, today I received a call from one woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose \$360 per month in retirement benefits—over \$4000 per year.

Why should she risk it? If H.R. 743 passes today, it won't be only she that loses. It will be our Nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I will vote "no" on H.R. 743, and urge my colleagues to do the same.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to say to the gentlewoman from Texas that this levels the playing field and treats the people, or the teachers in Texas as other teachers throughout the entire country.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), another valued member of the Committee on Ways and Means.

Mr. HULSHOF. Mr. Speaker, I thank the chairman for yielding me this time, and I rise in support of H.R. 743, the Social Security Protection Act.

There are a lot of issues that are addressed that are important to Americans with disabilities that depend upon Title II and Title XVI. Individuals facing the challenges of life with a disability need these protections that are proposed on the representative payee provisions.

There are about 6 million Americans that receive Social Security and supplemental security income. These beneficiaries often have family members or loved ones who act on their behalf, and yet there are some of those receiving these benefits that go to services, a fee for this service of being

a representative payee. If someone receives a fee for this service, now they must be bonded and licensed. And if this representative payee chooses to pray on the disability or the elderly, society's most vulnerable, then tough civil monetary penalties will result. These changes are important and necessary.

Another provision deserving mention, Mr. Speaker, is contained within section 401 through 405. In 1999, this body enacted some breakthrough changes for individuals with disabilities, specifically the Ticket to Work and Work Incentive Improvement Act. The Ticket to Work rolled over barriers that prevented countless employable individuals with disabilities from rejoining the workforce.

□ 1115

Yet now we need to make some technical corrections. For instance, one of the things in the original Ticket to Work bill was a demonstration project which allowed the commissioners of Social Security to look at other ways to employ those that want to rejoin the workforce. One of the technical corrections is that we extend the 5-year limit on designing and implementing these worthy demonstration projects.

I am especially interested personally in abolishing this so-called "income cliff." That is, if an individual is employable and works and achieves earnings up to a certain amount, if that individual makes \$1 more than that, they fall off the cliff and lose all of their Social Security disability benefits. I encourage this sliding scale, for every \$2 earned, maybe losing \$1 of disability benefits. Yet we need to make those technical corrections to the bill so employer networks will accept these beneficiaries that are participating in this \$1 for \$2 offset demonstration project. So these are worthy changes.

Let me quickly address the issue of my colleagues from Texas. There was a recent study that the General Accounting Office came back to our committee in August of last year with, at the request of the chairman, and found this last-day exemption, this loophole, found that nearly 5,000 individuals in two States were taking advantage of this loophole in order to get around the requirements of law.

What we do is simply implement the changes of the GAO. What the General Accounting Office found was that we were allowing, current law was allowing a select group of individuals with really a small investment of work time and only minimal Social Security contributions to really gain access to potentially many years of full Social Security benefits. I recognize this is a tough situation for those Members from those particular States; but as the chairman alluded after the last speaker, this is something that brings those States in line with the other 48 States. Again a difficult but necessary, important change. These changes are overdue. I urge adoption of H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, there are over 40,000 teachers across the State of Texas who could be adversely affected by this legislation. This bill includes provisions which I consider to be catastrophic for Texas teachers and many other government employees. Provisions in the legislation would, in effect, reduce the amount of combined benefits that the Texas teachers could depend upon after retirement, even for many teachers who have paid into both Social Security and the Texas teacher retirement system.

I realize that many in this body characterize section 418, the section that would extend the last-day exemption to 6 years, as an issue of fundamental fairness. With that, I cannot entirely disagree. Those who are able to take advantage of a loophole in the law represent a small minority of Americans who pay into Social Security and a government pension; and there are other ways in which we can fix that, and we do have legislation that is pending.

I do not object to this legislation on the grounds that it seeks to create an equitable system of payment for all citizens. I object to a process whereby Members of the Texas delegation and other delegations are not able to offer amendments or debate this bill on the floor of the House. This legislation will have broad implementations for teachers in Texas and will most likely force a mass exodus of experienced teachers from our public schools. Under this legislation, teachers will still be able to retire this year and use the last day exemption provision to draw their retirement.

What impetus does an experienced teacher have to stay in the classroom and continue teaching if the government is, in effect, going to significantly reduce his or her retirement payment after this year? If we are to attract and retain qualified, caring teachers, then hidden procedures such as that in section 418 must be debated and considered in an open forum where amendments and debate are not stifled. Now is not the time to force experienced, caring teachers into retirement and demonstrate to the younger generation of educators our indifference to the livelihood of our Nation's educators.

Mr. Speaker, I ask that we pull section 418, make the bill like it was last year, or defeat H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Speaker, a few years ago a lady came to my office in my district whose husband had died before he had ever collected a single penny of Social Security. He had worked his entire life paying into the Social Security system thinking when he died, his wife would receive a survivor's benefit from his Social Security

payments that would help keep her secure during her retirement.

She sat in my office near tears explaining to me that because she had spent her career in teaching and because she receives a monthly Texas State teacher's retirement benefit, she would never see one penny from Social Security. To learn that she would have received a survivor's benefit if she had been drawing a retirement benefit from a private, rather than a public, retirement fund only added insult to her injury.

Mr. Speaker, this is unfair and the government pension offset must be repealed. For the 6 years that I have been in Congress, I have cosponsored the legislation to end this unfair result caused by this provision we call the GPO. Last year 186 Members on both sides of the aisle cosponsored legislation to repeal this government pension offset. In spite of that support, the bill never has passed, never has received a full hearing in the committee. And in spite of the support in this Congress, section 418 of the bill before us moves in exactly the opposite direction.

Mr. Speaker, I urge my colleagues to protect our teachers, to reject this bill today, to send it back to the Committee on Ways and Means with the understanding that the GPO should be repealed.

Mr. MATSUI. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

This is an issue so important to some of us who represent districts in Texas and Georgia, and it is important nationwide because there has been legislation in the last 4 years that had a majority of the U.S. House of Representatives as cosponsors to repeal the offset for public employees, for teachers, firefighters and police officers. The gentleman from Arizona (Mr. HAYWORTH) was a cosponsor of the bill 2 years ago, and now we are gathering signatures again. It is a system that is wrong, and it needs to be changed; but in my 5 years, we have not had a chance to address it on the floor of the House of Representatives.

I know my colleagues talk about the 1 day as a loophole. Well, it may be a loophole, but it is also complying with the law. It is interesting, we are going to close a loophole and allow firefighters, police officers and teachers to go to work 1 day in a system that has Social Security and their retirement system and be eligible for Social Security. Yet we are willing to open up millions of loopholes for corporations to be able to walk through.

I regret to say Enron is from the area I am from in Houston, and they have not paid Federal taxes in 6 years. We do not mind opening loopholes big enough for corporations to drive trucks through, but for a school teacher who wants to get her husband's Social Security benefits because she has taught

for 30 years teaching our children, we are closing up that loophole. They get penalized on their widow's benefits. We are talking about widows' benefits and not somebody that is double dipping, and I know previously that is what the committee wanted to do.

Mr. Speaker, I am opposed to H.R. 743, and I hope that Members will look at it to change it. Some public employees are not covered by Social Security, and in Texas it is particularly our police officers, firefighters and teachers. Our school districts can be part of Social Security or not. The individual employee, whether they are a cafeteria worker or custodian or a teacher, they do not have a choice. All they want to do is serve our children, and yet they are getting penalized.

My example is the best one I can think of. My wife and I have been married 33 years. She has been a teacher in Texas for 26 years. If I died tomorrow, she would be penalized on all the benefits that I have put into Social Security. I have paid the maximum for I-don't-know-how-many years. She would be penalized because she is a public schoolteacher in Texas.

H.R. 743 has a great many good things in it, but this is so bad we ought to have enough votes on the floor to be able to defeat it and bring it back without this provision in it, or at least bring it back and debate it fully on the floor with an opportunity to amend it.

Full spousal benefit ought to be if I paid into Social Security, my wife as a widow when I pass away ought to get the same benefit no matter whether she is a stay-at-home housewife or actually worked as a schoolteacher. We should not punish teachers and firefighters and police officers by stripping away this right unless we address the underlying problem of the government pension offset.

Closing a loophole, that is what the current law is. And in Texas I have a good example. I have a teacher in my wife's school district who was 73 years old. Her husband died in her early sixties. She was receiving his Social Security widow's benefit. She could not retire because of the cut she would take in her Social Security benefit from her husband. They were married many years so she was entitled to it. What she did, she went and worked in a school district that had Social Security and teacher retirement for that 1 day at 73 years old. How long do we want people to have to work?

It is just outrageous what the law has made people have to do. Teachers across our country are chronically underpaid. We give lots of lip service on the floor. Yesterday we passed a resolution about Lutheran educators. I am talking about public school teachers who teach our children every day. Is it perfect? Of course not. But this is the only thing we can do on the Federal level because teachers' salaries are set by the school districts and by the States. But this is something we can do to say we are not going to slap them in

the face. We are going to make sure that if someone is a teacher and has taught all those years, and their husband has been under Social Security and they pass away, and I say husband because most of the teachers are women. They are the ones in their retirement years who have less than we do as men, and yet we are taking that away from them. Again, that is just outrageous.

We find it harder and harder to attract teachers. Let us make sure if teachers are married to someone who pays into Social Security, they can get their widow's benefit without being punished for it. This issue is close to the heart for a lot of us in Texas.

Mr. SHAW. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I remind Members who are going to vote on this issue who are zeroing in on this one small part of this bill, where we have a two-worker family both paying into Social Security, one dies, the survivor either gets their earned benefit or the survivor benefit, whichever is greater.

But in Texas where you have one spouse who has paid nothing into Social Security but paid all into their pension plan, they would receive, if they worked 1 day under the Social Security system, they would receive their full pension and survivor benefits. All we are trying to do is to say if someone works 5 years under Social Security, they can get both. But if they work 1 day, they cannot get both.

This is trying to level the playing field for the millions of teachers, firefighters and others across this country who have paid into Social Security, to level the playing field so the people who never paid into Social Security are not getting a better deal. It is as simple as that.

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

□ 1130

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mrs. JONES), a member of the Committee on Ways and Means.

Mrs. JONES of Ohio. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to speak in support of the legislation, but not with regard to the government offset. It is very, very important that we make sure that we take care of the persons on Social Security that have representatives speaking on their behalf. This legislation will provide stricter requirements with regard to those who represent people in the Social Security Administration on behalf of recipients.

This is my first opportunity as a member of the Committee on Ways and Means, the Subcommittee on Social Security, to be on the floor to speak on behalf of an issue. I am pleased to stand in support of this legislation with regard to all the provisions with regard to Social Security. I thank the chairman and the ranking member for

all the work they have done in this particular regard.

Mr. SHAW. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BRADY), a valued member of the Ways and Means subcommittee.

Mr. BRADY of Texas. Mr. Speaker, we are right to be concerned about our teachers. They are overworked. They are underpaid. We are concerned about them. I think had it not been for study over the last year or so, I would be giving the exact same speech today as my Democratic colleagues from Texas because we are all concerned. It turns out this is not exactly the case I thought it was.

Recently we held a hearing on this legislation. We wanted to hear from our Texas teachers, so we requested the chairman invite our Texas State Teachers Association, our Texas Federation of Teachers and the Association of Texas Professional Educators to testify. Unfortunately, they were not able to because of various reasons, the snow being one of them, but we submitted their testimony on their behalf and urged members of the subcommittee to study it.

During the hearing, it was shown that teachers in government pensions are not being singled out. They are not. The government pension offset affects more than just teachers. It affects more than 5 million people in all sorts of State, local and Federal Government pensions who do not pay into Social Security. This is important to know because a lot of my teachers feel like they are being targeted, being singled out.

My main concern during the hearing that I expressed that my teachers are so upset about, that a widower who has worked a lifetime to earn their government pension, like a Texas teacher, will keep less of their deceased spouse's Social Security than a widower who has worked and paid into Social Security. The Social Security Administration conclusively proved this is not the case. It turns out it is just the opposite.

Teachers in TRS are able to keep the same, or more, of their spouse's Social Security benefits than other widowers who have worked, like nurses or waitresses. That is because the government pension offset law reduces their husband's or their deceased spouse's Social Security by two-thirds of their pension. But for other widowers, for waitresses, nurses and others who paid into Social Security, their husband's benefits are reduced even more, 100 percent of their own benefit.

What I think confuses teachers and many is that if someone has not worked, they have worked inside the home all their life, have not earned Social Security, they keep all of their husband's or their deceased spouses's benefits because they depend upon it more. Social Security is extremely complicated. There is a great deal of misinformation going around the Internet and by well-meaning individuals and organizations these days.

What frustrates me most is that teachers were not told about this situation years ago. They feel they have paid into Social Security for years and they do not get the help when they need it the most. It would have been so much better if this would have been reformed years ago, where you put aside your own contribution to Social Security into a traditional retirement account, where that money grew for you over the years, you could take it with you, it was yours to own and you would not be surprised by some government formula done 20 years ago. That is where we need to head.

How we can help teachers today and others I think is to focus on the windfall elimination provision. It sounds complicated, but the principle is, for me, if you have worked hard and paid into Social Security and you have worked hard and paid into a government pension, you should receive more of both. I am thinking here of teachers who have contributed their hard-earned pay into Social Security through a second job, teachers who have contributed to Social Security in another State before moving to Texas or Georgia, thinking of future teachers who already have a career, we would like to get them into the classroom to help but they are afraid of losing their retirement benefits. I believe the best and the most timely solution to help these people, these teachers, and others who have earned two pensions, is to modernize the windfall elimination provision to make it more fair.

I have asked our subcommittee chairman, the gentleman from Florida (Mr. SHAW), to hold hearings on the windfall elimination provision. This is where I think we can take a formula that is outdated, I think a bit arbitrary, and focus on the principles if you have paid into Social Security and you have paid into your government pension, that you keep more of the Social Security that you have paid into.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. GILCREST). The gentleman from Texas is recognized for 5½ minutes.

Mr. DOGGETT. Mr. Speaker, I must begin by saying that I find the comments of the last speaker, the gentleman from Texas (Mr. BRADY), to be very troubling. Each of the three organizations that he identified, the Association of Professional Texas Educators, the Texas State Teachers Association, and the American Federation of Teachers, oppose this bill. They have submitted written testimony when at least one of those organization's representatives was stranded in Austin because of an ice storm.

It is fine to talk about teachers; this Republican leadership though has a chance to act. Today they talk about leveling the playing field. It is just that they want to level the playing

field down instead of leveling the playing field up. The Texas teachers who have tried to protect themselves from this terrible government pension offset have confronted a Republican leadership that has been in control here for the last eight years. What have they done about the windfall elimination provision or the government pension offset during that time? They filed a bill that a lot of us have cosponsored. They could have had a hearing in the subcommittee last week on that bill. But what did they choose to do? They took a bill that passed unanimously, that I voted for, that the gentleman from California (Mr. MATSUI) voted for, that every Member of this Chamber voted for last year, and they added a provision to it, on page 70 of the bill, section 418, a provision that is not even clearly identified in the summary of the bill. This bill has the effect of taking away a right that Texas teachers and teachers in other parts of this country have utilized and which they enjoy a perfect right to utilize.

It is legal and proper for teachers to do this, and the reason they must act for themselves is that this Congress, under Republican leadership, has failed to act for them. This self-help should be of little surprise when all they hear is talk up here and when the Republican leadership will not even set this for a hearing.

Yes, they had a hearing on a bill that passed unanimously last year. They just tucked in a little provision they did not tell us about that hurts the teachers of Texas and many other States. Then what did they do after they held a hearing when our teachers were stuck in an ice storm but they were so eager to move forward that they would not wait for them to get to Washington? Did they bring it up for a vote in the subcommittee? No, they did not. Did they bring it up for a vote in the full committee on Ways and Means? No, they did not. Instead they brought it directly to the floor today in a surprise move announced only a couple of legislative days after this was taken up in committee. Now they propose to bring it up under a procedure where debate is limited and we cannot even offer an amendment to take out this offending provision.

Yes, I think we should do something about felons getting Social Security checks. I am ready to vote for that. But why do we have to treat our teachers like felons and deny them the benefits that they have rightly earned?

The loss of a spouse is difficult enough to bear. But when a widow or a widower has devoted their lifetime to public service as a teacher often at low wages, they get another cruel surprise. When these former educators lose their husband or wife, the Social Security Administration does not send them a letter to console them in their mourning, it reduces the spousal Social Security benefit by two-thirds of the teacher's pension. That is what these teachers are concerned about.

To the average retired teacher in Texas, or anywhere else, this means a loss of about \$360 a month. For an elderly retiree, you can call it an "offset," but for them it is mighty upsetting. Confronted with this unfair offset and the technique that teachers have had to rely on as self-help to fix this injustice, the Republican leadership has not been willing to correct the problem. Instead, they want to target the cure. What a contrast, too, with the rest of their legislative package.

The Republicans could have fixed this injustice in a separate bill or they could have fixed this injustice in the bill that they are going to be taking up tomorrow, that began as a very appropriate, unanimously supported bill much like this one. It is called the "Armed Forces Tax Fairness Act," and it is designed to treat our Armed Forces fairly as they serve in harm's way throughout the world.

But what began as a bill to help our Armed Forces has been debased with measures that would allow foreigners to bet on horse races tax-free, certainly good news to the Turks and the French; it would exempt fishing tackle boxes from an excise tax; and exempt bows and arrows from a similar tax.

I support tax fairness for our military because they secure our country. But I also support retirement security for our teachers because they build the foundation upon which our democracy rests. The Republican leadership is today tackling the issue of tackle boxes, but it tells our teachers to "Go fish." They will cut bow and arrow taxes but put a bulls-eye on teachers. Surely we can also fix the injustice that this offset inflicts on America's educators.

We ask for a "no" vote on this bill and we have a message to this entire Congress that has not been heard, apparently by even some of our own representatives, but certainly not by the sneaky tactics that got this provision in the bill. That message, is, "Don't mess with Texas." [Doggett holds bumper sticker] Don't mess with Texas teachers. Vote "no" on this bad bill.

Mr. SHAW. Mr. Speaker, I would remind the other speaker that what we did was picked up the language that the Democrat-controlled Senate passed by unanimous consent in the last Congress and put it in this bill and now have brought it to the floor.

Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, clearing up a couple of misconceptions there, I would love to be able to tell my Texas teachers, whom I love, what they want to hear. But I respect them too much to do that. I want to tell them the truth. The fact of the matter is, this was not snuck in. This was passed in the Senate last session. And this Republican House, with Texas lawmakers from both sides said, let us discuss this in open debate and make sure it is the right way, which is exactly what we are doing. Both parties have had a

chance to work on this issue since 1983. We have not come up with a solution yet. We are working to do that.

Finally, I want our Texas teachers to be treated fairly. I want our Texas waitresses and nurses and other moms to be treated fairly, too.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to remind the House, even though we have been talking about the Texas situation over most of the time that has been allocated to this bill, exactly what this bill does and exactly why it is and does receive such high bipartisan support. This holds representative payees accountable for mismanaging benefits and increases representative payee oversight. We support that and you support that. It denies Social Security benefits to fugitive felons. That is right. I support that. You support that. It deters fraud by creating new civil penalties for Social Security fraud. All of us agree to that. It helps individuals with disabilities gain access to representation. These are the people that need it most. We agree with that. You agree with that. It helps disabled beneficiaries return to work. This is something that I think that this Congress has done with a ticket to work, and I think have done it in the best tradition of this House, in a very bipartisan way.

Now we come to a little bump in the road. It does involve Texas. I think the gentleman was quite right to put the sign up, "Don't Mess with Texas," because that is a Texas problem. But Texas has discovered a loophole which folds into their pension plan which is unfair to the rest of the country. The General Accounting Office has told us that this is going to amount to about a half a billion dollars in savings once this goes into place, just simply by treating Texas like the rest of the country.

□ 1145

This is not anti-Texas, and it is not intended to punish anybody. As a matter of fact, those that are already receiving those double benefits and the disability benefits as well as their earned pension plans will continue to do so. They plan for their retirement. So we do not take that away; but we do put fairness into the law, and we say that people who do not pay into Social Security should not get a better deal than those who did pay into Social Security.

With that, Mr. Speaker, I ask for a "yes" vote.

Mr. UDALL of Colorado. Mr. Speaker, I support this bill because it includes many necessary provisions to protect Social Security beneficiaries.

However, I do have concerns about one provision, and would have preferred for the bill to be considered under a procedure allowing for amendments.

The troublesome provision is the one related to the "government pension offset" part of the Social Security Act.

I understand the rationale for that provision, which would make application of the offset

provision more uniform. However, I think it would be better for this provision to be considered separately, as part of a measure to make other revisions to the government pension offset.

I think the offset should be revised, because as it stands it works a hardship on many people. That is why I am cosponsoring a bill (H.R. 887) which would assure that the offset will not reduce Social Security benefits below \$2,000 per month. I hope the House will soon take up that much-needed legislation.

Mr. ORTIZ. Mr. Speaker, the original intent of this bill was a worthy one: to reimburse Social Security benefits if they are misused by people representing the recipient.

That's not controversial . . . but the provision reducing the spousal Social Security benefits for countless teachers, school support personnel, police officers, firefighters, and other public servants is most certainly controversial—and I intend to oppose the entire bill since it contains this provision that will adversely affect teachers and others across Texas. These are people we should be protecting.

We need to understand that targeting pensions of teachers and other school employees will discourage qualified individuals from entering the classroom at exactly the time when the nation is experiencing a shortage of teachers. We say we are committed to education . . . yet in this bill we are profoundly uncommitted to educators.

The teachers across the state of Texas are largely women and are not wealthy people. They depend on the benefits of both them and their spouses; nearly all are part of two-income families. We are being monumentally unfair to them by changing the rules late in the game.

Since we are ramrodding this bill through the House with non-controversial bills today, be on notice that our opposition efforts will not end here.

I am a co-sponsor of HR 594, a bill introduced in the 108th Congress that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits.

Mr. Speaker, I am deeply disappointed that this provision was included in an otherwise good bill.

Ms. TUBBS JONES of Ohio. Mr. Speaker, I rise in support of H.R. 743. First, I would like to acknowledge Mr. MATSUI for working diligently on the Social Security Act of 2003.

As we all know, H.R. 743 will extend the direct fee withholding program payment to attorneys who represent supplemental security income claimants, thus encouraging more attorneys to represent them.

It is vital that we pass legislation that addresses the major concerns of our seniors, the blind, and the disabled.

This legislation imposes greater standards on individuals and organizations that serve as representative payees for Social Security and supplemental security income recipients; this legislation will make non-governmental representative payees liable for "misused" funds and subject them to civil monetary penalties; H.R. 743 will reduce the fee assessments from the Social Security Administration that charges attorneys for fee withholding.

Overall, the Social Security Act of 2003 will be beneficial to recipients and those who serve as representatives for recipients.

Furthermore, H.R. 743 will make a number of technical changes designed to reduce Social Security fraud and abuse.

Mr. Speaker, I will close my statement for the record with supporting H.R. 743.

Mr. REYES. Mr. Speaker, I rise today in recognition of the hard work of our nation's teachers, particularly in El Paso, Texas, which I proudly represent. My community, like many other communities across the country, are suffering from a teacher shortage. Our schools lack teachers in many important areas of study, such as math, science, and special education. Meanwhile, teacher salaries are still insufficient and it is difficult to recruit qualified personnel when salaries are not attractive.

I know full well the effort and hard work that teachers dedicate to their students. My wife was a teacher for many years and my daughter, who just completed her doctorate degree in education, is currently an administrator at a local school district. I believe the teaching profession is one of the most honorable professions. I credit our teachers with laying the foundation for the future of our country and the world. In addition to teaching children the basic skills they need, teachers are an important guiding force for our children. After parents, they are one of the greatest influences on children. We therefore need to make sure we have well-qualified and well-paid teachers educating students.

As you know Mr. Speaker, passage of this bill before us would reduce the spousal Social Security benefits for countless teachers. H.R. 743 also affects school support personnel, police officers, firefighters, and other public servants. At a time when multi-billion dollar tax breaks are being given to our country's top income earners, our teachers and other public servants would be penalized through this bill. These are people we should be protecting. We should not make them pay for the tax cuts we give those who are more fortunate. This bill negatively affects teachers and other public servants in my state of Texas. For that reason I will be voting against this bill.

Mr. Speaker, I have co-sponsored H.R. 594, a bill introduced by my colleague Mr. MCKEON that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits.

I strongly urge my colleagues to oppose H.R. 743 and continue to support our teachers.

Mr. ROYCE. Mr. Speaker, I am firmly committed to protecting Social Security for current recipients and for those who will be retiring in the near future. So, I want to thank the Chairman of the Subcommittee on Social Security, Mr. Shaw for his efforts to strengthen the financial security of our Nation's retirement system. I support the Social Security Protection Act, and I was pleased to support this bill when it passed the House unanimously last year. It is unfortunate that the House and Senate couldn't work out a final version before the end of the 107th Congress.

This bill stops fugitive felons from receiving benefits. The CBO estimates we will pay over \$500 million to fugitive felons over the next 10 years from the Social Security trust funds.

The Social Security Administration appoints representative payees for many beneficiaries to help manage their financial affairs when they are not able. This bill protects these

beneficiaries from representative payees who may misuse their benefits.

Mr. Speaker, this bill helps put the Security back in Social Security and I look forward to its passage.

Mr. HINOJOSA. Mr. Speaker, I rise in strong opposition to H.R. 743. I do so, not because I oppose ending Social Security fraud and abuse, but because of a section that is damaging to state and municipal employees. Section 418 is bad for teachers, police officers, fire fighters and other state and local workers in Texas who receive government pensions that are currently being reduced because of the Government Pension Offset provision of the Social Security Act. Section 418 would require experienced public servants to quit their jobs prematurely and work for the private sector for the 5 years before they retire in order to avoid the offset. We all know that our Nation has a critical shortage of teachers and public safety personnel. This provision will only exacerbate the problem.

The teachers of Texas have been writing and calling my office to protest this long-standing offset provision that is taking away Social Security benefits that they and their spouses have earned. At a time when federal and state budgets for education are being slashed, this is just one more slap in the face to those who are working hard to educate our children. We need to let them know that education is a national priority and that we value their dedication.

Instead of this bill that will provide no relief for these hardworking public servants, I urge the majority to bring H.R. 594, introduced by Congressman MCKEON and which I proudly co-sponsor, to the House floor for a vote. This legislation would repeal both the Government Pension Offset and the "Windfall Elimination Provision", another portion of the Social Security Act that is penalizing state and local government employees.

I encourage my colleagues to move quickly to bring real relief to teachers and other public employees by considering H.R. 594 or failing that, by bringing H.R. 743 to the floor under regular order so that this damaging Section 418 provision can be removed. Our public servants deserves no less.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to register my strong support for the Social Security Protection Act of 2003 (H.R. 743).

While I recognize there are differences between Republicans and Democrats on how to address the long-term solvency problems facing Social Security, I am pleased to see that we can work together to address other important issues facing the program.

H.R. 743 is a common-sense bill that provides the Social Security Administration with the necessary resources and tools to fight fraud and abuse. Along with other provisions in the bill, this will save taxpayers \$656 million over ten years. In addition, the legislation improves the landmark Ticket to Work law to help people with disabilities find work.

H.R. 743 also adds Kentucky to the list of states that offer divided retirement systems. In January, the former governments of the City of Louisville and Jefferson County merged. Since the merger was approved by the people of Jefferson County in November 2000, local and state officials have been working together to ensure that the transition was without problems. All indications are that it has been a success.

One important issue, however, that needs to be addressed is how to provide Social Security and Medicare coverage to hazardous duty employees working for the county and the city. Since January 6, 2003, all officers are considered a single group for Social Security coverage purposes. Prior to the merger some police officers and firefighters contributed to Medicare, but not Social Security. Some contributed to both; others neither.

As we can see, ensuring fair and equal coverage presents a serious challenge to the new government. After working with all interested parties, it was agreed that a divided retirement system is the solution. Currently 21 states use this system.

Under a divided retirement system, each employee will decide whether or not to pay into Social Security. All new employees hired after the system is in place would automatically be enrolled in Social Security.

The Kentucky Division of Social Security has started the education process with representatives from the Social Security Administration and the groups that represents the hazardous duty employees. Last year, the Kentucky General Assembly adopted a bill that allows this system to go forward as soon as Congress approves this legislation and President Bush signs it into law.

In closing, I would like to thank Chairman SHAW and Ranking Member MATSUI for including this important provision in H.R. 743 and urge my colleagues to support the bill.

Mr. SHAW. Mr. Speaker. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCREST). The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and pass the bill. H.R. 743, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DOGGETT. Mr. Speaker. I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 743.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

Mr. CRANE. Mr. Speaker. I move to suspend the rules and pass the bill

(H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

The Clerk read as follows:

H.R. 1047

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Trade and Technical Corrections Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents

TITLE I—TARIFF PROVISIONS

Sec. 1001. Reference; expired provisions.

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1101. Bitolylene diisocyanate (TODI).

Sec. 1102. 2-Methylimidazole.

Sec. 1103. Hydroxylamine free base.

Sec. 1104. Prenol.

Sec. 1105. 1-Methylimidazole.

Sec. 1106. Formamide.

Sec. 1107. Michler's ethyl ketone.

Sec. 1108. Vinyl imidazole.

Sec. 1109. Disperse blue 27.

Sec. 1110. Acid black 244.

Sec. 1111. Reactive orange 132.

Sec. 1112. Mixtures of acid red 337, acid red 266, and acid red 361.

Sec. 1113. Vat red 13.

Sec. 1114. 5-Methylpyridine-2,3-dicarboxylic acid.

Sec. 1115. 5-Methylpyridine-2,3-dicarboxylic acid diethylester.

Sec. 1116. 5-Ethylpyridine dicarboxylic acid.

Sec. 1117. (e)-O(2,5-Dimethylphenoxy methyl)-2-methoxy-imino-n-methylphenylacetamide.

Sec. 1118. 2-Chloro-N-(4¼chlorobiphenyl-2-yl) nicotinamide.

Sec. 1119. Vinclozolin.

Sec. 1120. Dazomet.

Sec. 1121. Pyraclostrobin.

Sec. 1122. 1,3-Benzenedicarboxylic acid, 5-sulfo-1,3-dimethyl ester sodium salt.

Sec. 1123. Saccharose.

Sec. 1124. Buctril.

Sec. 1125. (2-Benzothiazolythio) butanedioic acid.

Sec. 1126. 60-70 Percent amine salt of 2-benzo-thiazolythio succinic acid in solvent.

Sec. 1127. 4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1).

Sec. 1128. Mixtures of rimsulfuron, nicosulfuron, and application adjuvants.

Sec. 1129. Mixtures of thifensulfuron methyl, tribenuron methyl and application adjuvants.

Sec. 1130. Mixtures of thifensulfuron methyl and application adjuvants.

Sec. 1131. Mixtures of tribenuron methyl and application adjuvants.

Sec. 1132. Mixtures of rimsulfuron, thifensulfuron methyl and application adjuvants.

Sec. 1133. Vat black 25.

Sec. 1134. Cyclohexanepropanoic acid, 2-propenyl ester.

Sec. 1135. Neoheliopan hydro (2-phenylbenzimidazole-5-sulfonic acid).

Sec. 1136. Sodium methylate powder (Na methylate powder).

Sec. 1137. Globanone (cyclohexadec-8-en-1-one).

Sec. 1138. Methyl acetophenone-para (mellitot).

Sec. 1139. Majantol (2,2-dimethyl-3-(3-methylphenyl)propanol).

Sec. 1140. NeoHeliopan MA (menthyl anthranilate).

Sec. 1141. Allyl isosulfofocyanate.

Sec. 1142. Frescolat.

Sec. 1143. Thymol (alpha-cymophenol).

Sec. 1144. Benzyl carbazate.

Sec. 1145. Esfenvalerate technical.

Sec. 1146. Avaunt and steward.

Sec. 1147. Helium.

Sec. 1148. Ethyl pyruvate.

Sec. 1149. Deltamethrin.

Sec. 1150. Asulam sodium salt.

Sec. 1151. Tralomethrin.

Sec. 1152. N-Phenyl-N¼-(1,2,3-thiadiazol-5-yl)-urea.

Sec. 1153. Benzenepropanoic acid, alpha-2-dichloro-5-(4 (difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl)-4-fluoro-ethyl ester.

Sec. 1154. (Z)-(1RS, 3RS)-3-(2-Chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-cyclopropane carboxylic acid.

Sec. 1155. 2-Chlorobenzyl chloride.

Sec. 1156. (S)-Alpha-hydroxy-3-phenoxybenzeneacetonitrile.

Sec. 1157. 4-Pentenoic acid, 3,3-dimethyl-methyl ester.

Sec. 1158. Terrazole.

Sec. 1159. 2-Mercaptoethanol.

Sec. 1160. Bifenazate.

Sec. 1161. A certain polymer.

Sec. 1162. Ethylphenol.

Sec. 1163. Ezetimibe.

Sec. 1164. p-Cresidinesulfonic acid.

Sec. 1165. 2,4 Disulfobenzaldehyde.

Sec. 1166. m-Hydroxybenzaldehyde.

Sec. 1167. N-Ethyl-n-(3-sulfobenzyl)aniline, benzenesulfonic acid, 3[(ethylphenylamino)methyl].

Sec. 1168. Acrylic fiber tow.

Sec. 1169. Yttrium oxides.

Sec. 1170. Hexanedioic acid, polymer with 1,3-benzenedicimethanamine.

Sec. 1171. N1-(6-Chloro-3-pyridyl)methyl-N2-cyano-N1-methylacetamide.

Sec. 1172. Aluminum tris (O-ethyl phosphonate).

Sec. 1173. Mixture of disperse blue 77 and disperse blue 56.

Sec. 1174. Acid black 194.

Sec. 1175. Mixture of 9,10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-and disperse blue 77.

Sec. 1176. Copper phthalocyanine substituted with 15 or 16 groups which comprise 8-15 thioaryl and 1-8 arylamino groups.

Sec. 1177. Bags for certain toys.

Sec. 1178. Certain children's products.

Sec. 1179. Certain optical instruments used in children's products.

Sec. 1180. Cases for certain children's products.

Sec. 1181. 2,4-Dichloroaniline.

Sec. 1182. Ethoprop.

Sec. 1183. Foramsulfuron.

Sec. 1184. Certain epoxy molding compounds.

Sec. 1185. Dimethyldicyane.

Sec. 1186. Triacetone diamine.

Sec. 1187. Triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl) propionate].

Sec. 1188. Certain power weaving textile machinery.

Sec. 1189. Certain filament yarns.

Sec. 1190. Certain other filament yarns.

Sec. 1191. Certain ink-jet textile printing machinery.

ACTION

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
March 14, 2003
FC-4A

CONTACT: (202) 225-3625

Thomas Announces Committee Action on H.R. 743, The "Social Security Protection Act of 2003"

Congressman Bill Thomas (R-CA), Chairman of the Committee on Ways and Means, today announced that on Thursday, March 13, 2003, the Committee ordered favorably reported, H.R. 743, the "Social Security Protection Act of 2003," as amended, by a recorded vote of 35 to 2.

DESCRIPTION OF H.R. 743 AS APPROVED:

This legislation would protect the nearly 8 million Social Security and Supplemental Security Income (SSI) beneficiaries who cannot manage their own financial affairs and have a "representative payee" to handle their monthly benefits. The legislation would protect these vulnerable recipients from misuse of benefits by their representative payees by:

- Authorizing the re-issuance of certain misused benefits.
- Requiring bonding and licensing for community-based nonprofit agency representative payees and increasing periodic reviews of representative payees serving a number of beneficiaries.
- Disqualifying from serving as representative payees persons convicted of offenses and imprisoned more than a year, and persons fleeing prosecution, custody, or confinement for a felony.
- Requiring those representative payees who misused funds to forfeit their fees.
- Allowing for the recovery of misused benefits from the representative payee through the overpayment recovery process.
- Requiring representative payees who are delinquent in filing annual accounting reports to receive the individual's benefits in person at a local office.
- Expanding civil monetary penalty authority to include misuse of benefits by representative payees.

The legislation would also further protect Social Security programs and individuals by:

- Clarifying civil monetary penalty authority so that sanctions may be imposed against persons who withhold material facts in order to obtain or increase benefits.
- Requiring the Social Security Administration (SSA) to issue receipts to beneficiaries who report changes in earnings or work status to help avoid overpayments.

- Denying Social Security benefits to persons fleeing prosecution, custody, or confinement for a felony, as well as probation/parole violators.
- Requiring individuals who provide Social Security-related services for a fee to explain in their solicitations that the SSA provides the services free of charge.
- Authorizing the Commissioner to refuse to recognize certain disqualified attorneys.
- Establishing penalties for impeding any SSA employee while acting in their official capacity.
- Expanding the current law prohibition on the use of Social Security or Medicare symbols, emblems, or references.
- Prohibiting individuals who fraudulently conceal work activity from being eligible for a trial work period.
- Allowing Federal courts to order a person who breaks the law relating to Social Security or to the SSI program to make restitution to the trust funds or general fund as appropriate.

H.R. 743 would also make improvements to the attorney fee payment system to help individuals with disabilities gain access to representation by:

- Extending attorney fee withholding to SSI claims.
- Imposing a \$75 cap (indexed for inflation) on the 6.3 percent assessment on approved attorney fees for Social Security and SSI claimants.

The bill would also improve work incentives for individuals with disabilities to return to work by:

- Clarifying the Ticket to Work and Work Incentives Improvement Act of 1999.
- Clarifying the Work Opportunity Tax Credit so that it is also available to employers who hire a disabled beneficiary who is referred from any employment network, not just the State rehabilitation agency.

In response to recent findings and recommendations by the U.S. General Accounting Office regarding abuse of the "last day" exemption by certain workers to avoid being subject to the Government Pension Offset, the final section includes a provision which would require State and local workers to work their last five years of State/local employment in jobs subject to Social Security taxation in order to be exempt from the Government Pension Offset (the same requirement that currently applies to Federal workers who switched from the Civil Service Retirement System to the Federal Employees Retirement System).

Also included are a number of miscellaneous and technical amendments, including provisions that would: provide compensation to the Social Security Advisory Board members and add Kentucky to the list of States allowed to have a divided retirement system. The legislation would correct, clarify, and modify various technical aspects of Social Security law and the Internal Revenue Code.

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 743
OFFERED BY MR. THOMAS**

Strike all after the enactment clause and insert the following:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Social Security Protection Act of 2003”.

4 (b) TABLE OF CONTENTS.—The table of contents is
5 as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

- Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
- Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

1 **TITLE I—PROTECTION OF**
2 **BENEFICIARIES**
3 **Subtitle A—Representative Payees**

4 **SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY**
5 **ORGANIZATIONAL REPRESENTATIVE PAYEES.**

6 (a) TITLE II AMENDMENTS.—

7 (1) REISSUANCE OF BENEFITS.—Section
8 205(j)(5) of the Social Security Act (42
9 U.S.C. 405(j)(5)) is amended by inserting after the
10 first sentence the following new sentences: “In any
11 case in which a representative payee that—

12 “(A) is not an individual (regardless of whether
13 it is a ‘qualified organization’ within the meaning of
14 paragraph (4)(B)); or

15 “(B) is an individual who, for any month dur-
16 ing a period when misuse occurs, serves 15 or more
17 individuals who are beneficiaries under this title,
18 title VIII, title XVI, or any combination of such ti-
19 tles;

20 misuses all or part of an individual’s benefit paid to such
21 representative payee, the Commissioner of Social Security
22 shall certify for payment to the beneficiary or the bene-
23 ficiary’s alternative representative payee an amount equal
24 to the amount of such benefit so misused. The provisions

1 of this paragraph are subject to the limitations of para-
2 graph (7)(B).”.

3 (2) MISUSE OF BENEFITS DEFINED.—Section
4 205(j) of such Act (42 U.S.C. 405(j)) is amended
5 by adding at the end the following new paragraph:

6 “(8) For purposes of this subsection, misuse of bene-
7 fits by a representative payee occurs in any case in which
8 the representative payee receives payment under this title
9 for the use and benefit of another person and converts
10 such payment, or any part thereof, to a use other than
11 for the use and benefit of such other person. The Commis-
12 sioner of Social Security may prescribe by regulation the
13 meaning of the term ‘use and benefit’ for purposes of this
14 paragraph.”.

15 (b) TITLE VIII AMENDMENTS.—

16 (1) REISSUANCE OF BENEFITS.—Section 807(i)
17 of the Social Security Act (42 U.S.C. 1007(i)) is
18 amended by inserting after the first sentence the fol-
19 lowing new sentences: “In any case in which a rep-
20 resentative payee that—

21 “(1) is not an individual; or

22 “(2) is an individual who, for any month during
23 a period when misuse occurs, serves 15 or more indi-
24 viduals who are beneficiaries under this title, title II,
25 title XVI, or any combination of such titles;

1 misuses all or part of an individual's benefit paid to such
2 representative payee, the Commissioner of Social Security
3 shall pay to the beneficiary or the beneficiary's alternative
4 representative payee an amount equal to the amount of
5 such benefit so misused. The provisions of this paragraph
6 are subject to the limitations of subsection (1)(2).”.

7 (2) MISUSE OF BENEFITS DEFINED.—Section
8 807 of such Act (42 U.S.C. 1007) is amended by
9 adding at the end the following new subsection:

10 “(j) MISUSE OF BENEFITS.—For purposes of this
11 title, misuse of benefits by a representative payee occurs
12 in any case in which the representative payee receives pay-
13 ment under this title for the use and benefit of another
14 person under this title and converts such payment, or any
15 part thereof, to a use other than for the use and benefit
16 of such person. The Commissioner of Social Security may
17 prescribe by regulation the meaning of the term ‘use and
18 benefit’ for purposes of this subsection.”.

19 (3) TECHNICAL AMENDMENT.—Section 807(a)
20 of such Act (42 U.S.C. 1007(a)) is amended, in the
21 first sentence, by striking “for his or her benefit”
22 and inserting “for his or her use and benefit”.

23 (c) TITLE XVI AMENDMENTS.—

24 (1) REISSUANCE OF BENEFITS.—Section
25 1631(a)(2)(E) of such Act (42

1 U.S.C. 1383(a)(2)(E)) is amended by inserting
2 after the first sentence the following new sentences:

3 “In any case in which a representative payee that—
4 “(i) is not an individual (regardless of whether
5 it is a ‘qualified organization’ within the meaning of
6 subparagraph (D)(ii)); or

7 “(ii) is an individual who, for any month during
8 a period when misuse occurs, serves 15 or more indi-
9 viduals who are beneficiaries under this title, title II,
10 title VIII, or any combination of such titles;

11 misuses all or part of an individual’s benefit paid to the
12 representative payee, the Commissioner of Social Security
13 shall pay to the beneficiary or the beneficiary’s alternative
14 representative payee an amount equal to the amount of
15 the benefit so misused. The provisions of this subpara-
16 graph are subject to the limitations of subparagraph
17 (H)(ii).”.

18 (2) EXCLUSION OF REISSUED BENEFITS FROM
19 RESOURCES.—Section 1613(a) of such Act (42
20 U.S.C. 1382b(a)) is amended—

21 (A) in paragraph (12), by striking “and”
22 at the end;

23 (B) in paragraph (13), by striking the pe-
24 riod and inserting “; and”; and

1 (C) by inserting after paragraph (13) the
2 following new paragraph:

3 “(14) for the 9-month period beginning after
4 the month in which received, any amount received by
5 such individual (or spouse) or any other person
6 whose income is deemed to be included in such indi-
7 vidual’s (or spouse’s) income for purposes of this
8 title as restitution for benefits under this title, title
9 II, or title VIII that a representative payee of such
10 individual (or spouse) or such other person under
11 section 205(j), 807, or 1631(a)(2) has misused.”.

12 (3) MISUSE OF BENEFITS DEFINED.—Section
13 1631(a)(2)(A) of such Act (42
14 U.S.C. 1383(a)(2)(A)) is amended by adding at the
15 end the following new clause:

16 “(iv) For purposes of this paragraph, misuse of bene-
17 fits by a representative payee occurs in any case in which
18 the representative payee receives payment under this title
19 for the use and benefit of another person and converts
20 such payment, or any part thereof, to a use other than
21 for the use and benefit of such other person. The Commis-
22 sioner of Social Security may prescribe by regulation the
23 meaning of the term ‘use and benefit’ for purposes of this
24 clause.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any case of benefit misuse by
3 a representative payee with respect to which the Commis-
4 sioner makes the determination of misuse on or after Jan-
5 uary 1, 1995.

6 **SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.**

7 (a) CERTIFICATION OF BONDING AND LICENSING
8 REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZA-
9 TIONAL REPRESENTATIVE PAYEES.—

10 (1) TITLE II AMENDMENTS.—Section 205(j) of
11 the Social Security Act (42 U.S.C. 405(j)) is
12 amended—

13 (A) in paragraph (2)(C)(v), by striking “a
14 community-based nonprofit social service agen-
15 cy licensed or bonded by the State” in sub-
16 clause (I) and inserting “a certified community-
17 based nonprofit social service agency (as de-
18 fined in paragraph (9))”;

19 (B) in paragraph (3)(F), by striking “com-
20 munity-based nonprofit social service agencies”
21 and inserting “certified community-based non-
22 profit social service agencies (as defined in
23 paragraph (9))”;

24 (C) in paragraph (4)(B), by striking “any
25 community-based nonprofit social service agen-

1 cy which is bonded or licensed in each State in
2 which it serves as a representative payee” and
3 inserting “any certified community-based non-
4 profit social service agency (as defined in para-
5 graph (9))”; and

6 (D) by adding after paragraph (8) (as
7 added by section 101(a)(2) of this Act) the fol-
8 lowing new paragraph:

9 “(9) For purposes of this subsection, the term ‘cer-
10 tified community-based nonprofit social service agency’
11 means a community-based nonprofit social service agency
12 which is in compliance with requirements, under regula-
13 tions which shall be prescribed by the Commissioner, for
14 annual certification to the Commissioner that it is bonded
15 in accordance with requirements specified by the Commis-
16 sioner and that it is licensed in each State in which it
17 serves as a representative payee (if licensing is available
18 in such State) in accordance with requirements specified
19 by the Commissioner. Any such annual certification shall
20 include a copy of any independent audit on such agency
21 which may have been performed since the previous certifi-
22 cation.”.

23 (2) TITLE XVI AMENDMENTS.—Section
24 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
25 amended—

1 (A) in subparagraph (B)(vii), by striking
2 “a community-based nonprofit social service
3 agency licensed or bonded by the State” in sub-
4 clause (I) and inserting “a certified community-
5 based nonprofit social service agency (as de-
6 fined in subparagraph (I))”;

7 (B) in subparagraph (D)(ii)—

8 (i) by striking “or any community-
9 based” and all that follows through “in ac-
10 cordance” in subclause (II) and inserting
11 “or any certified community-based non-
12 profit social service agency (as defined in
13 subparagraph (I)), if the agency, in ac-
14 cordance”;

15 (ii) by redesignating items (aa) and
16 (bb) as subclauses (I) and (II), respectively
17 (and adjusting the margination accord-
18 ingly); and

19 (iii) by striking “subclause (II)(bb)”
20 and inserting “subclause (II)”;

21 (C) by adding at the end the following new
22 subparagraph:

23 “(I) For purposes of this paragraph, the term ‘cer-
24 tified community-based nonprofit social service agency’
25 means a community-based nonprofit social service agency

1 which is in compliance with requirements, under regula-
2 tions which shall be prescribed by the Commissioner, for
3 annual certification to the Commissioner that it is bonded
4 in accordance with requirements specified by the Commis-
5 sioner and that it is licensed in each State in which it
6 serves as a representative payee (if licensing is available
7 in the State) in accordance with requirements specified by
8 the Commissioner. Any such annual certification shall in-
9 clude a copy of any independent audit on the agency which
10 may have been performed since the previous certifi-
11 cation.”.

12 (3) EFFECTIVE DATE.—The amendments made
13 by this subsection shall take effect on the first day
14 of the thirteenth month beginning after the date of
15 the enactment of this Act.

16 (b) PERIODIC ONSITE REVIEW.—

17 (1) TITLE II AMENDMENT.—Section 205(j)(6)
18 of such Act (42 U.S.C. 405(j)(6)) is amended to
19 read as follows:

20 “(6)(A) In addition to such other reviews of rep-
21 resentative payees as the Commissioner of Social Security
22 may otherwise conduct, the Commissioner shall provide for
23 the periodic onsite review of any person or agency located
24 in the United States that receives the benefits payable
25 under this title (alone or in combination with benefits pay-

1 able under title VIII or title XVI) to another individual
2 pursuant to the appointment of such person or agency as
3 a representative payee under this subsection, section 807,
4 or section 1631(a)(2) in any case in which—

5 “(i) the representative payee is a person who
6 serves in that capacity with respect to 15 or more
7 such individuals;

8 “(ii) the representative payee is a certified com-
9 munity-based nonprofit social service agency (as de-
10 fined in paragraph (9) of this subsection or section
11 1631(a)(2)(I)); or

12 “(iii) the representative payee is an agency
13 (other than an agency described in clause (ii)) that
14 serves in that capacity with respect to 50 or more
15 such individuals.

16 “(B) Within 120 days after the end of each fiscal
17 year, the Commissioner shall submit to the Committee on
18 Ways and Means of the House of Representatives and the
19 Committee on Finance of the Senate a report on the re-
20 sults of periodic onsite reviews conducted during the fiscal
21 year pursuant to subparagraph (A) and of any other re-
22 views of representative payees conducted during such fis-
23 cal year in connection with benefits under this title. Each
24 such report shall describe in detail all problems identified

1 in such reviews and any corrective action taken or planned
2 to be taken to correct such problems, and shall include—

3 “(i) the number of such reviews;

4 “(ii) the results of such reviews;

5 “(iii) the number of cases in which the rep-
6 resentative payee was changed and why;

7 “(iv) the number of cases involving the exercise
8 of expedited, targeted oversight of the representative
9 payee by the Commissioner conducted upon receipt
10 of an allegation of misuse of funds, failure to pay a
11 vendor, or a similar irregularity;

12 “(v) the number of cases discovered in which
13 there was a misuse of funds;

14 “(vi) how any such cases of misuse of funds
15 were dealt with by the Commissioner;

16 “(vii) the final disposition of such cases of mis-
17 use of funds, including any criminal penalties im-
18 posed; and

19 “(viii) such other information as the Commis-
20 sioner deems appropriate.”.

21 (2) TITLE VIII AMENDMENT.—Section 807 of
22 such Act (as amended by section 101(b)(2) of this
23 Act) is amended further by adding at the end the
24 following new subsection:

1 “(k) PERIODIC ONSITE REVIEW.—(1) In addition to
2 such other reviews of representative payees as the Com-
3 missioner of Social Security may otherwise conduct, the
4 Commissioner may provide for the periodic onsite review
5 of any person or agency that receives the benefits payable
6 under this title (alone or in combination with benefits pay-
7 able under title II or title XVI) to another individual pur-
8 suant to the appointment of such person or agency as a
9 representative payee under this section, section 205(j), or
10 section 1631(a)(2) in any case in which—

11 “(A) the representative payee is a person who
12 serves in that capacity with respect to 15 or more
13 such individuals; or

14 “(B) the representative payee is an agency that
15 serves in that capacity with respect to 50 or more
16 such individuals.

17 “(2) Within 120 days after the end of each fiscal
18 year, the Commissioner shall submit to the Committee on
19 Ways and Means of the House of Representatives and the
20 Committee on Finance of the Senate a report on the re-
21 sults of periodic onsite reviews conducted during the fiscal
22 year pursuant to paragraph (1) and of any other reviews
23 of representative payees conducted during such fiscal year
24 in connection with benefits under this title. Each such re-
25 port shall describe in detail all problems identified in such

1 reviews and any corrective action taken or planned to be
2 taken to correct such problems, and shall include—

3 “(A) the number of such reviews;

4 “(B) the results of such reviews;

5 “(C) the number of cases in which the rep-
6 resentative payee was changed and why;

7 “(D) the number of cases involving the exercise
8 of expedited, targeted oversight of the representative
9 payee by the Commissioner conducted upon receipt
10 of an allegation of misuse of funds, failure to pay a
11 vendor, or a similar irregularity;

12 “(E) the number of cases discovered in which
13 there was a misuse of funds;

14 “(F) how any such cases of misuse of funds
15 were dealt with by the Commissioner;

16 “(G) the final disposition of such cases of mis-
17 use of funds, including any criminal penalties im-
18 posed; and

19 “(H) such other information as the Commis-
20 sioner deems appropriate.”.

21 (3) TITLE XVI AMENDMENT.—Section
22 1631(a)(2)(G) of such Act (42
23 U.S.C. 1383(a)(2)(G)) is amended to read as fol-
24 lows:

1 “(G)(i) In addition to such other reviews of rep-
2 representative payees as the Commissioner of Social Security
3 may otherwise conduct, the Commissioner shall provide for
4 the periodic onsite review of any person or agency that
5 receives the benefits payable under this title (alone or in
6 combination with benefits payable under title II or title
7 VIII) to another individual pursuant to the appointment
8 of the person or agency as a representative payee under
9 this paragraph, section 205(j), or section 807 in any case
10 in which—

11 “(I) the representative payee is a person who
12 serves in that capacity with respect to 15 or more
13 such individuals;

14 “(II) the representative payee is a certified
15 community-based nonprofit social service agency (as
16 defined in subparagraph (I) of this paragraph or
17 section 205(j)(9)); or

18 “(III) the representative payee is an agency
19 (other than an agency described in subclause (II))
20 that serves in that capacity with respect to 50 or
21 more such individuals.

22 “(ii) Within 120 days after the end of each fiscal
23 year, the Commissioner shall submit to the Committee on
24 Ways and Means of the House of Representatives and the
25 Committee on Finance of the Senate a report on the re-

1 sults of periodic onsite reviews conducted during the fiscal
2 year pursuant to clause (i) and of any other reviews of
3 representative payees conducted during such fiscal year in
4 connection with benefits under this title. Each such report
5 shall describe in detail all problems identified in the re-
6 views and any corrective action taken or planned to be
7 taken to correct the problems, and shall include—

8 “(I) the number of the reviews;

9 “(II) the results of such reviews;

10 “(III) the number of cases in which the rep-
11 resentative payee was changed and why;

12 “(IV) the number of cases involving the exercise
13 of expedited, targeted oversight of the representative
14 payee by the Commissioner conducted upon receipt
15 of an allegation of misuse of funds, failure to pay a
16 vendor, or a similar irregularity;

17 “(V) the number of cases discovered in which
18 there was a misuse of funds;

19 “(VI) how any such cases of misuse of funds
20 were dealt with by the Commissioner;

21 “(VII) the final disposition of such cases of
22 misuse of funds, including any criminal penalties im-
23 posed; and

24 “(VIII) such other information as the Commis-
25 sioner deems appropriate.”

1 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
2 **RESENTATIVE PAYEE OF PERSONS CON-**
3 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
4 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
5 **ING PROSECUTION, CUSTODY, OR CONFINE-**
6 **MENT.**

7 (a) TITLE II AMENDMENTS.—Section 205(j)(2) of
8 the Social Security Act (42 U.S.C. 405(j)(2)) is
9 amended—

10 (1) in subparagraph (B)(i)—

11 (A) by striking “and” at the end of sub-
12 clause (III);

13 (B) by redesignating subclause (IV) as
14 subclause (VI); and

15 (C) by inserting after subclause (III) the
16 following new subclauses:

17 “(IV) obtain information concerning whether
18 such person has been convicted of any other offense
19 under Federal or State law which resulted in impris-
20 onment for more than 1 year,

21 “(V) obtain information concerning whether
22 such person is a person described in section
23 202(x)(1)(A)(iv), and”;

24 (2) in subparagraph (B), by adding at the end
25 the following new clause:

1 “(iii) Notwithstanding the provisions of section 552a
2 of title 5, United States Code, or any other provision of
3 Federal or State law (other than section 6103 of the Inter-
4 nal Revenue Code of 1986 and section 1106(c) of this
5 Act), the Commissioner shall furnish any Federal, State,
6 or local law enforcement officer, upon the written request
7 of the officer, with the current address, social security ac-
8 count number, and photograph (if applicable) of any per-
9 son investigated under this paragraph, if the officer fur-
10 nishes the Commissioner with the name of such person
11 and such other identifying information as may reasonably
12 be required by the Commissioner to establish the unique
13 identity of such person, and notifies the Commissioner
14 that—

15 “(I) such person is described in section
16 202(x)(1)(A)(iv),

17 “(II) such person has information that is nec-
18 essary for the officer to conduct the officer’s official
19 duties, and

20 “(III) the location or apprehension of such per-
21 son is within the officer’s official duties.”;

22 (3) in subparagraph (C)(i)(II), by striking
23 “subparagraph (B)(i)(IV),” and inserting “subpara-
24 graph (B)(i)(VI)” and striking “section

1 1631(a)(2)(B)(ii)(IV)” and inserting “section
2 1631(a)(2)(B)(ii)(VI)”;

3 (4) in subparagraph (C)(i)—

4 (A) by striking “or” at the end of sub-
5 clause (II);

6 (B) by striking the period at the end of
7 subclause (III) and inserting a comma; and

8 (C) by adding at the end the following new
9 subclauses:

10 “(IV) such person has previously been convicted
11 as described in subparagraph (B)(i)(IV), unless the
12 Commissioner determines that such certification
13 would be appropriate notwithstanding such convic-
14 tion, or

15 “(V) such person is person described in section
16 202(x)(1)(A)(iv).”.

17 (b) TITLE VIII AMENDMENTS.—Section 807 of such
18 Act (42 U.S.C. 1007) is amended—

19 (1) in subsection (b)(2)—

20 (A) by striking “and” at the end of sub-
21 paragraph (C);

22 (B) by redesignating subparagraph (D) as
23 subparagraph (F); and

24 (C) by inserting after subparagraph (C)
25 the following new subparagraphs:

1 “(D) obtain information concerning wheth-
2 er such person has been convicted of any other
3 offense under Federal or State law which re-
4 sulted in imprisonment for more than 1 year;

5 “(E) obtain information concerning wheth-
6 er such person is a person described in section
7 804(a)(2); and”;

8 (2) in subsection (b), by adding at the end the
9 following new paragraph:

10 “(3) Notwithstanding the provisions of section
11 552a of title 5, United States Code, or any other
12 provision of Federal or State law (other than section
13 6103 of the Internal Revenue Code of 1986 and sec-
14 tion 1106(c) of this Act), the Commissioner shall
15 furnish any Federal, State, or local law enforcement
16 officer, upon the written request of the officer, with
17 the current address, social security account number,
18 and photograph (if applicable) of any person inves-
19 tigated under this subsection, if the officer furnishes
20 the Commissioner with the name of such person and
21 such other identifying information as may reason-
22 ably be required by the Commissioner to establish
23 the unique identity of such person, and notifies the
24 Commissioner that—

1 “(A) such person is described in section
2 804(a)(2),

3 “(B) such person has information that is
4 necessary for the officer to conduct the officer’s
5 official duties, and

6 “(C) the location or apprehension of such
7 person is within the officer’s official duties.”;
8 and

9 (3) in subsection (d)(1)—

10 (A) by striking “or” at the end of subpara-
11 graph (B);

12 (B) by striking the period at the end of
13 subparagraph (C) and inserting a semicolon;
14 and

15 (C) by adding at the end the following new
16 subparagraphs:

17 “(D) such person has previously been con-
18 victed as described in subsection (b)(2)(D), un-
19 less the Commissioner determines that such
20 payment would be appropriate notwithstanding
21 such conviction; or

22 “(E) such person is a person described in
23 section 804(a)(2).”.

1 (c) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is
3 amended—

4 (1) in clause (ii)—

5 (A) by striking “and” at the end of sub-
6 clause (III);

7 (B) by redesignating subclause (IV) as
8 subclause (VI); and

9 (C) by inserting after subclause (III) the
10 following new subclauses:

11 “(IV) obtain information concerning whether
12 the person has been convicted of any other offense
13 under Federal or State law which resulted in impris-
14 onment for more than 1 year;

15 “(V) obtain information concerning whether
16 such person is a person described in section
17 1611(e)(4)(A); and”;

18 (2) in clause (iii)(II)—

19 (A) by striking “clause (ii)(IV)” and in-
20 serting “clause (ii)(VI)”;

21 (B) by striking “section
22 205(j)(2)(B)(i)(IV)” and inserting “section
23 205(j)(2)(B)(i)(VI)”;

24 (3) in clause (iii)—

1 (A) by striking “or” at the end of sub-
2 clause (II);

3 (B) by striking the period at the end of
4 subclause (III) and inserting a semicolon; and

5 (C) by adding at the end the following new
6 subclauses:

7 “(IV) the person has previously been convicted
8 as described in clause (ii)(IV) of this subparagraph,
9 unless the Commissioner determines that the pay-
10 ment would be appropriate notwithstanding the con-
11 viction; or

12 “(V) such person is a person described in sec-
13 tion 1611(e)(4)(A).”; and

14 (4) by adding at the end the following new
15 clause:

16 “(xiv) Notwithstanding the provisions of section 552a
17 of title 5, United States Code, or any other provision of
18 Federal or State law (other than section 6103 of the Inter-
19 nal Revenue Code of 1986 and section 1106(c) of this
20 Act), the Commissioner shall furnish any Federal, State,
21 or local law enforcement officer, upon the written request
22 of the officer, with the current address, social security ac-
23 count number, and photograph (if applicable) of any per-
24 son investigated under this subparagraph, if the officer
25 furnishes the Commissioner with the name of such person

1 and such other identifying information as may reasonably
2 be required by the Commissioner to establish the unique
3 identity of such person, and notifies the Commissioner
4 that—

5 “(I) such person is described in section
6 1611(e)(4)(A),

7 “(II) such person has information that is nec-
8 essary for the officer to conduct the officer’s official
9 duties, and

10 “(III) the location or apprehension of such per-
11 son is within the officer’s official duties.”.

12 (d) **EFFECTIVE DATE.**—The amendments made by
13 this section shall take effect on the first day of the thir-
14 teenth month beginning after the date of the enactment
15 of this Act.

16 (e) **REPORT TO THE CONGRESS.**—The Commissioner
17 of Social Security, in consultation with the Inspector Gen-
18 eral of the Social Security Administration, shall prepare
19 a report evaluating whether the existing procedures and
20 reviews for the qualification (including disqualification) of
21 representative payees are sufficient to enable the Commis-
22 sioner to protect benefits from being misused by represent-
23 ative payees. The Commissioner shall submit the report
24 to the Committee on Ways and Means of the House of
25 Representatives and the Committee on Finance of the

1 Senate no later than 270 days after the date of the enact-
2 ment of this Act. The Commissioner shall include in such
3 report any recommendations that the Commissioner con-
4 siders appropriate.

5 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE**
6 **BY REPRESENTATIVE PAYEES.**

7 (a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i)
8 of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is
9 amended—

10 (1) in the first sentence, by striking “A” and
11 inserting “Except as provided in the next sentence,
12 a”; and

13 (2) in the second sentence, by striking “The
14 Secretary” and inserting the following:

15 “A qualified organization may not collect a fee from an
16 individual for any month with respect to which the Com-
17 missioner of Social Security or a court of competent juris-
18 diction has determined that the organization misused all
19 or part of the individual’s benefit, and any amount so col-
20 lected by the qualified organization for such month shall
21 be treated as a misused part of the individual’s benefit
22 for purposes of paragraphs (5) and (6). The Commis-
23 sioner”.

1 (b) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2)(D)(i) of such Act (42
3 U.S.C. 1383(a)(2)(D)(i)) is amended—

4 (1) in the first sentence, by striking “A” and
5 inserting “Except as provided in the next sentence,
6 a”; and

7 (2) in the second sentence, by striking “The
8 Commissioner” and inserting the following: “A
9 qualified organization may not collect a fee from an
10 individual for any month with respect to which the
11 Commissioner of Social Security or a court of com-
12 petent jurisdiction has determined that the organiza-
13 tion misused all or part of the individual’s benefit,
14 and any amount so collected by the qualified organi-
15 zation for such month shall be treated as a misused
16 part of the individual’s benefit for purposes of sub-
17 paragraphs (E) and (F). The Commissioner”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any month involving benefit mis-
20 use by a representative payee in any case with respect to
21 which the Commissioner of Social Security or a court of
22 competent jurisdiction makes the determination of misuse
23 after 180 days after the date of the enactment of this Act.

1 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR**
2 **MISUSED BENEFITS.**

3 (a) TITLE II AMENDMENTS.—Section 205(j) of the
4 Social Security Act (42 U.S.C. 405(j)) (as amended by
5 sections 101 and 102) is amended further—

6 (1) by redesignating paragraphs (7), (8), and
7 (9) as paragraphs (8), (9), and (10), respectively;

8 (2) in paragraphs (2)(C)(v), (3)(F), and (4)(B),
9 by striking “paragraph (9)” and inserting “para-
10 graph (10)”;

11 (3) in paragraph (6)(A)(ii), by striking “para-
12 graph (9)” and inserting “paragraph (10)”;

13 (4) by inserting after paragraph (6) the fol-
14 lowing new paragraph:

15 “(7)(A) If the Commissioner of Social Security or a
16 court of competent jurisdiction determines that a rep-
17 resentative payee that is not a Federal, State, or local gov-
18 ernment agency has misused all or part of an individual’s
19 benefit that was paid to such representative payee under
20 this subsection, the representative payee shall be liable for
21 the amount misused, and such amount (to the extent not
22 repaid by the representative payee) shall be treated as an
23 overpayment of benefits under this title to the representa-
24 tive payee for all purposes of this Act and related laws
25 pertaining to the recovery of such overpayments. Subject
26 to subparagraph (B), upon recovering all or any part of

1 such amount, the Commissioner shall certify an amount
2 equal to the recovered amount for payment to such indi-
3 vidual or such individual's alternative representative
4 payee.

5 “(B) The total of the amount certified for payment
6 to such individual or such individual's alternative rep-
7 resentative payee under subparagraph (A) and the amount
8 certified for payment under paragraph (5) may not exceed
9 the total benefit amount misused by the representative
10 payee with respect to such individual.”.

11 (b) TITLE VIII AMENDMENT.—Section 807 of such
12 Act (as amended by section 102(b)(2)) is amended further
13 by adding at the end the following new subsection:

14 “(1) LIABILITY FOR MISUSED AMOUNTS.—

15 “(1) IN GENERAL.—If the Commissioner of So-
16 cial Security or a court of competent jurisdiction de-
17 termines that a representative payee that is not a
18 Federal, State, or local government agency has mis-
19 used all or part of a qualified individual's benefit
20 that was paid to such representative payee under
21 this section, the representative payee shall be liable
22 for the amount misused, and such amount (to the
23 extent not repaid by the representative payee) shall
24 be treated as an overpayment of benefits under this
25 title to the representative payee for all purposes of

1 this Act and related laws pertaining to the recovery
2 of such overpayments. Subject to paragraph (2),
3 upon recovering all or any part of such amount, the
4 Commissioner shall make payment of an amount
5 equal to the recovered amount to such qualified indi-
6 vidual or such qualified individual's alternative rep-
7 resentative payee.

8 “(2) LIMITATION.—The total of the amount
9 paid to such individual or such individual's alter-
10 native representative payee under paragraph (1) and
11 the amount paid under subsection (i) may not ex-
12 ceed the total benefit amount misused by the rep-
13 resentative payee with respect to such individual.”.

14 (c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)
15 of such Act (42 U.S.C. 1383(a)(2)) (as amended by sec-
16 tion 102(b)(3)) is amended further—

17 (1) in subparagraph (G)(i)(II), by striking “sec-
18 tion 205(j)(9)” and inserting “section 205(j)(10)”;
19 and

20 (2) by striking subparagraph (H) and inserting
21 the following:

22 “(H)(i) If the Commissioner of Social Security or a
23 court of competent jurisdiction determines that a rep-
24 resentative payee that is not a Federal, State, or local gov-
25 ernment agency has misused all or part of an individual's

1 benefit that was paid to the representative payee under
2 this paragraph, the representative payee shall be liable for
3 the amount misused, and the amount (to the extent not
4 repaid by the representative payee) shall be treated as an
5 overpayment of benefits under this title to the representa-
6 tive payee for all purposes of this Act and related laws
7 pertaining to the recovery of the overpayments. Subject
8 to clause (ii), upon recovering all or any part of the
9 amount, the Commissioner shall make payment of an
10 amount equal to the recovered amount to such individual
11 or such individual's alternative representative payee.

12 “(ii) The total of the amount paid to such individual
13 or such individual's alternative representative payee under
14 clause (i) and the amount paid under subparagraph (E)
15 may not exceed the total benefit amount misused by the
16 representative payee with respect to such individual.”.

17 (d) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to benefit misuse by a representa-
19 tive payee in any case with respect to which the Commis-
20 sioner of Social Security or a court of competent jurisdic-
21 tion makes the determination of misuse after 180 days
22 after the date of the enactment of this Act.

1 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
2 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
3 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

4 (a) TITLE II AMENDMENTS.—Section 205(j)(3) of
5 the Social Security Act (42 U.S.C. 405(j)(3)) (as amend-
6 ed by sections 102(a)(1)(B) and 105(a)(2)) is amended—

7 (1) by redesignating subparagraphs (E) and
8 (F) as subparagraphs (F) and (G), respectively; and

9 (2) by inserting after subparagraph (D) the fol-
10 lowing new subparagraph:

11 “(E) In any case in which the person described in
12 subparagraph (A) or (D) receiving payments on behalf of
13 another fails to submit a report required by the Commis-
14 sioner of Social Security under subparagraph (A) or (D),
15 the Commissioner may, after furnishing notice to such
16 person and the individual entitled to such payment, re-
17 quire that such person appear in person at a field office
18 of the Social Security Administration serving the area in
19 which the individual resides in order to receive such pay-
20 ments.”.

21 (b) TITLE VIII AMENDMENTS.—Section 807(h) of
22 such Act (42 U.S.C. 1007(h)) is amended—

23 (1) by redesignating paragraphs (3) and (4) as
24 paragraphs (4) and (5), respectively; and

25 (2) by inserting after paragraph (2) the fol-
26 lowing new paragraph:

1 “(3) AUTHORITY TO REDIRECT DELIVERY OF
2 BENEFIT PAYMENTS WHEN A REPRESENTATIVE
3 PAYEE FAILS TO PROVIDE REQUIRED ACCOUNT-
4 ING.—In any case in which the person described in
5 paragraph (1) or (2) receiving benefit payments on
6 behalf of a qualified individual fails to submit a re-
7 port required by the Commissioner of Social Secu-
8 rity under paragraph (1) or (2), the Commissioner
9 may, after furnishing notice to such person and the
10 qualified individual, require that such person appear
11 in person at a United States Government facility
12 designated by the Social Security Administration as
13 serving the area in which the qualified individual re-
14 sides in order to receive such benefit payments.”.

15 (c) TITLE XVI AMENDMENT.—Section
16 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is
17 amended by adding at the end the following new clause:

18 “(v) In any case in which the person described in
19 clause (i) or (iv) receiving payments on behalf of another
20 fails to submit a report required by the Commissioner of
21 Social Security under clause (i) or (iv), the Commissioner
22 may, after furnishing notice to the person and the indi-
23 vidual entitled to the payment, require that such person
24 appear in person at a field office of the Social Security

1 Administration serving the area in which the individual
2 resides in order to receive such payments.”.

3 (d) EFFECTIVE DATE.—The amendment made by
4 this section shall take effect 180 days after the date of
5 the enactment of this Act.

6 **Subtitle B—Enforcement**

7 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 8 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 9 **RESENTATIVE PAYEES.**

10 (a) IN GENERAL.—Section 1129(a) of the Social Se-
11 curity Act (42 U.S.C. 1320a–8) is amended by adding at
12 the end the following new paragraph:

13 “(3) Any person (including an organization, agency,
14 or other entity) who, having received, while acting in the
15 capacity of a representative payee pursuant to section
16 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
17 or XVI for the use and benefit of another individual, con-
18 verts such payment, or any part thereof, to a use that
19 such person knows or should know is other than for the
20 use and benefit of such other individual shall be subject
21 to, in addition to any other penalties that may be pre-
22 scribed by law, a civil money penalty of not more than
23 \$5,000 for each such conversion. Such person shall also
24 be subject to an assessment, in lieu of damages sustained
25 by the United States resulting from the conversion, of not

1 more than twice the amount of any payments so con-
2 verted.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply with respect to violations com-
5 mitted after the date of the enactment of this Act.

6 **TITLE II—PROGRAM** 7 **PROTECTIONS**

8 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 9 **SPECT TO KNOWING WITHHOLDING OF MATE-** 10 **RIAL FACTS.**

11 (a) TREATMENT OF WITHHOLDING OF MATERIAL
12 FACTS.—

13 (1) CIVIL PENALTIES.—Section 1129(a)(1) of
14 the Social Security Act (42 U.S.C. 1320a-8(a)(1))
15 is amended—

16 (A) by striking “who” in the first sentence
17 and inserting “who—”;

18 (B) by striking “makes” in the first sen-
19 tence and all that follows through “shall be sub-
20 ject to” and inserting the following:

21 “(A) makes, or causes to be made, a statement
22 or representation of a material fact, for use in deter-
23 mining any initial or continuing right to or the
24 amount of monthly insurance benefits under title II
25 or benefits or payments under title VIII or XVI,

1 that the person knows or should know is false or
2 misleading,

3 “(B) makes such a statement or representation
4 for such use with knowing disregard for the truth,
5 or

6 “(C) omits from a statement or representation
7 for such use, or otherwise withholds disclosure of, a
8 fact which the person knows or should know is mate-
9 rial to the determination of any initial or continuing
10 right to or the amount of monthly insurance benefits
11 under title II or benefits or payments under title
12 VIII or XVI, if the person knows, or should know,
13 that the statement or representation with such omis-
14 sion is false or misleading or that the withholding of
15 such disclosure is misleading,

16 shall be subject to”;

17 (C) by inserting “or each receipt of such
18 benefits or payments while withholding disclo-
19 sure of such fact” after “each such statement
20 or representation” in the first sentence;

21 (D) by inserting “or because of such with-
22 holding of disclosure of a material fact” after
23 “because of such statement or representation”
24 in the second sentence; and

1 (E) by inserting “or such a withholding of
2 disclosure” after “such a statement or rep-
3 resentation” in the second sentence.

4 (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-
5 ING PENALTIES.—Section 1129A(a) of such Act (42
6 U.S.C. 1320a–8a(a)) is amended—

7 (A) by striking “who” the first place it ap-
8 pears and inserting “who—”; and

9 (B) by striking “makes” and all that fol-
10 lows through “shall be subject to,” and insert-
11 ing the following:

12 “(1) makes, or causes to be made, a statement
13 or representation of a material fact, for use in deter-
14 mining any initial or continuing right to or the
15 amount of monthly insurance benefits under title II
16 or benefits or payments under title XVI that the
17 person knows or should know is false or misleading,

18 “(2) makes such a statement or representation
19 for such use with knowing disregard for the truth,
20 or

21 “(3) omits from a statement or representation
22 for such use, or otherwise withholds disclosure of, a
23 fact which the person knows or should know is mate-
24 rial to the determination of any initial or continuing
25 right to or the amount of monthly insurance benefits

1 under title II or benefits or payments under title
2 XVI, if the person knows, or should know, that the
3 statement or representation with such omission is
4 false or misleading or that the withholding of such
5 disclosure is misleading,
6 shall be subject to,”.

7 (b) CLARIFICATION OF TREATMENT OF RECOVERED
8 AMOUNTS.—Section 1129(e)(2)(B) of such Act (42
9 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the
10 case of amounts recovered arising out of a determination
11 relating to title VIII or XVI,” and inserting “In the case
12 of any other amounts recovered under this section,”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 1129(b)(3)(A) of such Act (42
15 U.S.C. 1320a–8(b)(3)(A)) is amended by striking
16 “charging fraud or false statements”.

17 (2) Section 1129(c)(1) of such Act (42
18 U.S.C. 1320a–8(c)(1)) is amended by striking “and
19 representations” and inserting “, representations, or
20 actions”.

21 (3) Section 1129(e)(1)(A) of such Act (42
22 U.S.C. 1320a–8(e)(1)(A)) is amended by striking
23 “statement or representation referred to in sub-
24 section (a) was made” and inserting “violation oc-
25 curred”.

1 (d) **EFFECTIVE DATE.**—The amendments made by
2 this section shall apply with respect to violations com-
3 mitted after the date on which the Commissioner imple-
4 ments the centralized computer file described in section
5 202.

6 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**
7 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**
8 **MISSION OF REPORTS OF CHANGES IN WORK**
9 **OR EARNINGS STATUS OF DISABLED BENE-**
10 **FICIARIES.**

11 Effective as soon as possible, but not later than 1
12 year after the date of the enactment of this Act, until such
13 time as the Commissioner of Social Security implements
14 a centralized computer file recording the date of the sub-
15 mission of information by a disabled beneficiary (or rep-
16 resentative) regarding a change in the beneficiary's work
17 or earnings status, the Commissioner shall issue a receipt
18 to the disabled beneficiary (or representative) each time
19 he or she submits documentation, or otherwise reports to
20 the Commissioner, on a change in such status.

1 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
2 **ING PROSECUTION, CUSTODY, OR CONFINEMENT,**
3 **AND TO PERSONS VIOLATING PROBATION OR PAROLE.**
4

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

7 (1) in the heading, by striking “Prisoners” and
8 all that follows and inserting the following: “Prisoners,
9 Certain Other Inmates of Publicly Funded Institutions,
10 Fugitives, Probationers, and Parolees”;

11 (2) in paragraph (1)(A)(ii)(IV), by striking
12 “or” at the end;

13 (3) in paragraph (1)(A)(iii), by striking the period
14 at the end and inserting a comma;

15 (4) by inserting after paragraph (1)(A)(iii) the
16 following:

17 “(iv) is fleeing to avoid prosecution, or custody
18 or confinement after conviction, under the laws of
19 the place from which the person flees, for a crime,
20 or an attempt to commit a crime, which is a felony
21 under the laws of the place from which the person
22 flees, or which, in the case of the State of New Jersey,
23 is a high misdemeanor under the laws of such
24 State, or

25 “(v) is violating a condition of probation or parole
26 imposed under Federal or State law.

1 In the case of an individual from whom such monthly ben-
2 efits have been withheld pursuant to clause (iv) or (v),
3 the Commissioner may, for good cause shown, pay such
4 withheld benefits to the individual.”; and

5 (5) in paragraph (3), by adding at the end the
6 following new subparagraph:

7 “(C) Notwithstanding the provisions of section 552a
8 of title 5, United States Code, or any other provision of
9 Federal or State law (other than section 6103 of the Inter-
10 nal Revenue Code of 1986 and section 1106(c) of this
11 Act), the Commissioner shall furnish any Federal, State,
12 or local law enforcement officer, upon the written request
13 of the officer, with the current address, Social Security
14 number, and photograph (if applicable) of any beneficiary
15 under this title, if the officer furnishes the Commissioner
16 with the name of the beneficiary, and other identifying in-
17 formation as reasonably required by the Commissioner to
18 establish the unique identity of the beneficiary, and noti-
19 fies the Commissioner that—

20 “(i) the beneficiary—

21 “(I) is described in clause (iv) or (v) of
22 paragraph (1)(A); and

23 “(II) has information that is necessary for
24 the officer to conduct the officer’s official du-
25 ties; and

1 “(ii) the location or apprehension of the bene-
2 ficiary is within the officer’s official duties.”.

3 (b) REGULATIONS.—Not later than the first day of
4 the first month that begins on or after the date that is
5 9 months after the date of the enactment of this Act, the
6 Commissioner of Social Security shall promulgate regula-
7 tions governing payment by the Commissioner, for good
8 cause shown, of withheld benefits, pursuant to the last
9 sentence of section 202(x)(1)(A) of the Social Security Act
10 (as amended by subsection (a)).

11 (c) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall take effect on the first day of the first
13 month that begins on or after the date that is 9 months
14 after the date of the enactment of this Act.

15 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
16 **VIDE FOR A FEE A PRODUCT OR SERVICE**
17 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
18 **CIAL SECURITY ADMINISTRATION.**

19 (a) IN GENERAL.—Section 1140 of the Social Secu-
20 rity Act (42 U.S.C. 1320b–10) is amended—

21 (1) in subsection (a), by adding at the end the
22 following new paragraph:

23 “(4)(A) No person shall offer, for a fee, to assist an
24 individual to obtain a product or service that the person
25 knows or should know is provided free of charge by the

1 Social Security Administration unless, at the time the
2 offer is made, the person provides to the individual to
3 whom the offer is tendered a notice that—

4 “(i) explains that the product or service is avail-
5 able free of charge from the Social Security Admin-
6 istration, and

7 “(ii) complies with standards prescribed by the
8 Commissioner of Social Security respecting the con-
9 tent of such notice and its placement, visibility, and
10 legibility.

11 “(B) Subparagraph (A) shall not apply to any offer—

12 “(i) to serve as a claimant representative in
13 connection with a claim arising under title II, title
14 VIII, or title XVI; or

15 “(ii) to prepare, or assist in the preparation of,
16 an individual’s plan for achieving self-support under
17 title XVI.”; and

18 (2) in the heading, by striking “PROHIBITION
19 OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN
20 REFERENCE” and inserting “PROHIBITIONS RELAT-
21 ING TO REFERENCES”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to offers of assistance made after
24 the sixth month ending after the Commissioner of Social
25 Security promulgates final regulations prescribing the

1 standards applicable to the notice required to be provided
2 in connection with such offer. The Commissioner shall
3 promulgate such final regulations within 1 year after the
4 date of the enactment of this Act.

5 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**
6 **AS CLAIMANT REPRESENTATIVES.**

7 Section 206(a)(1) of the Social Security Act (42
8 U.S.C. 406(a)(1)) is amended by inserting after the sec-
9 ond sentence the following: "Notwithstanding the pre-
10 ceding sentences, the Commissioner, after due notice and
11 opportunity for hearing, (A) may refuse to recognize as
12 a representative, and may disqualify a representative al-
13 ready recognized, any attorney who has been disbarred or
14 suspended from any court or bar to which he or she was
15 previously admitted to practice or who has been disquali-
16 fied from participating in or appearing before any Federal
17 program or agency, and (B) may refuse to recognize, and
18 may disqualify, as a non-attorney representative any attor-
19 ney who has been disbarred or suspended from any court
20 or bar to which he or she was previously admitted to prac-
21 tice. A representative who has been disqualified or sus-
22 pended pursuant to this section from appearing before the
23 Social Security Administration as a result of collecting or
24 receiving a fee in excess of the amount authorized shall
25 be barred from appearing before the Social Security Ad-

1 person shall be fined not more than \$3,000, imprisoned
2 not more than 1 year, or both. In this subsection, the
3 term ‘threats of force’ means threats of harm to the officer
4 or employee of the United States or to a contractor of
5 the Social Security Administration, or to a member of the
6 family of such an officer or employee or contractor.”.

7 **SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**
8 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

9 (a) IN GENERAL.—Section 1140(a)(1) of the Social
10 Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

11 (1) in subparagraph (A), by inserting “ ‘Cen-
12 ters for Medicare & Medicaid Services’,” after
13 “ ‘Health Care Financing Administration’,” by
14 striking “or ‘Medicaid’, ” and inserting “ ‘Med-
15 icaid’, ‘Death Benefits Update’, ‘Federal Benefit In-
16 formation’, ‘Funeral Expenses’, or ‘Final Supple-
17 mental Plan’,” and by inserting “ ‘CMS’,” after
18 “ ‘HCFA’,”;

19 (2) in subparagraph (B), by inserting “Centers
20 for Medicare & Medicaid Services,” after “Health
21 Care Financing Administration,” each place it ap-
22 pears; and

23 (3) in the matter following subparagraph (B),
24 by striking “the Health Care Financing Administra-

1 tion,” each place it appears and inserting “the Cen-
2 ters for Medicare & Medicaid Services,”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to items sent after 180 days after
5 the date of the enactment of this Act.

6 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
7 **TRIAL WORK PERIOD UPON CONVICTION OF**
8 **FRAUDULENT CONCEALMENT OF WORK AC-**
9 **TIVITY.**

10 (a) **IN GENERAL.**—Section 222(c) of the Social Secu-
11 rity Act (42 U.S.C. 422(c)) is amended by adding at the
12 end the following new paragraph:

13 “(5) Upon conviction by a Federal court that an indi-
14 vidual has fraudulently concealed work activity during a
15 period of trial work from the Commissioner of Social Secu-
16 rity by—

17 “(A) providing false information to the Com-
18 missioner of Social Security as to whether the indi-
19 vidual had earnings in or for a particular period, or
20 as to the amount thereof;

21 “(B) receiving disability insurance benefits
22 under this title while engaging in work activity
23 under another identity, including under another so-
24 cial security account number or a number pur-
25 porting to be a social security account number; or

1 “(b)(1) Any Federal court, when sentencing a defend-
2 ant convicted of an offense under subsection (a), may
3 order, in addition to or in lieu of any other penalty author-
4 ized by law, that the defendant make restitution to the
5 Social Security Administration.

6 “(2) Sections 3612, 3663, and 3664 of title 18,
7 United States Code, shall apply with respect to the
8 issuance and enforcement of orders of restitution under
9 this subsection. In so applying such sections, the Social
10 Security Administration shall be considered the victim.

11 “(3) If the court does not order restitution, or orders
12 only partial restitution, under this subsection, the court
13 shall state on the record the reasons therefor.”.

14 (b) AMENDMENTS TO TITLE VIII.—Section 807(i) of
15 such Act (42 U.S.C. 1007(i)) is amended—

16 (1) by striking “(i) RESTITUTION.—In any case
17 where” and inserting the following:

18 “(i) RESTITUTION.—

19 “(1) IN GENERAL.—In any case where”; and

20 (2) by adding at the end the following new
21 paragraph:

22 “(2) COURT ORDER FOR RESTITUTION.—

23 “(A) IN GENERAL.—Any Federal court,
24 when sentencing a defendant convicted of an of-
25 fense under subsection (a), may order, in addi-

1 tion to or in lieu of any other penalty author-
2 ized by law, that the defendant make restitution
3 to the Social Security Administration.

4 “(B) RELATED PROVISIONS.—Sections
5 3612, 3663, and 3664 of title 18, United States
6 Code, shall apply with respect to the issuance
7 and enforcement of orders of restitution under
8 this paragraph. In so applying such sections,
9 the Social Security Administration shall be con-
10 sidered the victim.

11 “(C) STATED REASONS FOR NOT ORDER-
12 ING RESTITUTION.—If the court does not order
13 restitution, or orders only partial restitution,
14 under this paragraph, the court shall state on
15 the record the reasons therefor.”.

16 (c) AMENDMENTS TO TITLE XVI.—Section 1632 of
17 such Act (42 U.S.C. 1383a) is amended—

18 (1) by redesignating subsection (b) as sub-
19 section (c); and

20 (2) by inserting after subsection (a) the fol-
21 lowing new subsection:

22 “(b)(1) Any Federal court, when sentencing a defend-
23 ant convicted of an offense under subsection (a), may
24 order, in addition to or in lieu of any other penalty author-

1 ized by law, that the defendant make restitution to the
2 Social Security Administration.

3 “(2) Sections 3612, 3663, and 3664 of title 18,
4 United States Code, shall apply with respect to the
5 issuance and enforcement of orders of restitution under
6 this subsection. In so applying such sections, the Social
7 Security Administration shall be considered the victim.

8 “(3) If the court does not order restitution, or orders
9 only partial restitution, under this subsection, the court
10 shall state on the record the reasons therefor.”

11 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-
12 TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.
13 904(b)) is amended by adding at the end the following
14 new paragraph:

15 “(3)(A) Except as provided in subparagraph (B),
16 amounts received by the Social Security Administration
17 pursuant to an order of restitution under section 208(b),
18 807(i), or 1632(b) shall be credited to a special fund es-
19 tablished in the Treasury of the United States for
20 amounts so received or recovered. The amounts so cred-
21 ited, to the extent and in the amounts provided in advance
22 in appropriations Acts, shall be available to defray ex-
23 penses incurred in carrying out titles II, VIII, and XVI.

24 “(B) Subparagraph (A) shall not apply with respect
25 to amounts received in connection with misuse by a rep-

1 resentative payee (within the meaning of sections 205(j),
2 807, and 1631(a)(2)) of funds paid as benefits under title
3 II, VIII, or XVI. Such amounts received in connection
4 with misuse of funds paid as benefits under title II shall
5 be transferred to the Managing Trustee of the Federal
6 Old-Age and Survivors Insurance Trust Fund or the Fed-
7 eral Disability Insurance Trust Fund, as determined ap-
8 propriate by the Commissioner of Social Security, and
9 such amounts shall be deposited by the Managing Trustee
10 into such Trust Fund. All other such amounts shall be
11 deposited by the Commissioner into the general fund of
12 the Treasury as miscellaneous receipts.”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 subsections (a), (b), and (c) shall apply with respect to
15 violations occurring on or after the date of the enactment
16 of this Act.

17 **TITLE III—ATTORNEY FEE PAY-**
18 **MENT SYSTEM IMPROVE-**
19 **MENTS**

20 **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

21 (a) IN GENERAL.—Section 206(d)(2)(A) of the Social
22 Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

23 (1) by inserting “, except that the maximum
24 amount of the assessment may not exceed the great-
25 er of \$75 or the adjusted amount as provided pursu-

1 ant to the following two sentences” after “subpara-
2 graph (B)”;

3 (2) by adding at the end the following new sen-
4 tence: “In the case of any calendar year beginning
5 after the amendments made by section 301 of the
6 Social Security Protection Act of 2003 take effect,
7 the dollar amount specified in the preceding sentence
8 (including a previously adjusted amount) shall be
9 adjusted annually under the procedures used to ad-
10 just benefit amounts under section 215(i)(2)(A)(ii),
11 except such adjustment shall be based on the higher
12 of \$75 or the previously adjusted amount that would
13 have been in effect for December of the preceding
14 year, but for the rounding of such amount pursuant
15 to the following sentence. Any amount so adjusted
16 that is not a multiple of \$1 shall be rounded to the
17 next lowest multiple of \$1, but in no case less than
18 \$75.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to fees for representa-
21 tion of claimants which are first required to be certified
22 or paid under section 206 of the Social Security Act on
23 or after the first day of the first month that begins after
24 180 days after the date of the enactment of this Act.

1 **SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**
2 **TO TITLE XVI CLAIMS.**

3 (a) IN GENERAL.—Section 1631(d)(2) of the Social
4 Security Act (42 U.S.C. 1383(d)(2)) is amended—

5 (1) in subparagraph (A), in the matter pre-
6 ceding clause (i)—

7 (A) by striking “section 206(a)” and in-
8 serting “section 206”;

9 (B) by striking “(other than paragraph (4)
10 thereof)” and inserting “(other than sub-
11 sections (a)(4) and (d) thereof)”; and

12 (C) by striking “paragraph (2) thereof”
13 and inserting “such section”;

14 (2) in subparagraph (A)(i), by striking “in sub-
15 paragraphs (A)(ii)(I) and (C)(i),” and inserting “in
16 subparagraphs (A)(ii)(I) and (D)(i) of subsection
17 (a)(2)”, and by striking “and” at the end;

18 (3) by striking subparagraph (A)(ii) and insert-
19 ing the following:

20 “(ii) by substituting, in subsections (a)(2)(B)
21 and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A)
22 or the requirements of due process of law’ for the
23 phrase ‘subsection (g) or (h) of section 223’;

24 “(iii) by substituting, in subsection (a)(2)(C)(i),
25 the phrase ‘under title II’ for the phrase ‘under title
26 XVI’;

1 “(iv) by substituting, in subsection (b)(1)(A),
2 the phrase ‘pay the amount of such fee’ for the
3 phrase ‘certify the amount of such fee for payment’
4 and by striking, in subsection (b)(1)(A), the phrase
5 ‘or certified for payment’; and

6 “(v) by substituting, in subsection (b)(1)(B)(ii),
7 the phrase ‘deemed to be such amounts as deter-
8 mined before any applicable reduction under section
9 1631(g), and reduced by the amount of any reduc-
10 tion in benefits under this title or title II made pur-
11 suant to section 1127(a)’ for the phrase ‘determined
12 before any applicable reduction under section
13 1127(a))’.”; and

14 (4) by striking subparagraph (B) and inserting
15 the following new subparagraphs:

16 “(B) Subject to subparagraph (C), if the claimant is
17 determined to be entitled to past-due benefits under this
18 title and the person representing the claimant is an attor-
19 ney, the Commissioner of Social Security shall pay out of
20 such past-due benefits to such attorney an amount equal
21 to the lesser of—

22 “(i) so much of the maximum fee as does not
23 exceed 25 percent of such past-due benefits (as de-
24 termined before any applicable reduction under sec-
25 tion 1631(g) and reduced by the amount of any re-

1 duction in benefits under this title or title II pursu-
2 ant to section 1127(a)), or

3 “(ii) the amount of past-due benefits available
4 after any applicable reductions under sections
5 1631(g) and 1127(a).

6 “(C)(i) Whenever a fee for services is required to be
7 paid to an attorney from a claimant’s past-due benefits
8 pursuant to subparagraph (B), the Commissioner shall
9 impose on the attorney an assessment calculated in ac-
10 cordance with clause (ii).

11 “(ii)(I) The amount of an assessment under clause
12 (i) shall be equal to the product obtained by multiplying
13 the amount of the representative’s fee that would be re-
14 quired to be paid by subparagraph (B) before the applica-
15 tion of this subparagraph, by the percentage specified in
16 subclause (II), except that the maximum amount of the
17 assessment may not exceed \$75. In the case of any cal-
18 endar year beginning after the amendments made by sec-
19 tion 302 of the Social Security Protection Act of 2003
20 take effect, the dollar amount specified in the preceding
21 sentence (including a previously adjusted amount) shall be
22 adjusted annually under the procedures used to adjust
23 benefit amounts under section 215(i)(2)(A)(ii), except
24 such adjustment shall be based on the higher of \$75 or
25 the previously adjusted amount that would have been in

1 effect for December of the preceding year, but for the
2 rounding of such amount pursuant to the following sen-
3 tence. Any amount so adjusted that is not a multiple of
4 \$1 shall be rounded to the next lowest multiple of \$1, but
5 in no case less than \$75.

6 “(II) The percentage specified in this subclause is
7 such percentage rate as the Commissioner determines is
8 necessary in order to achieve full recovery of the costs of
9 determining and approving fees to attorneys from the
10 past-due benefits of claimants, but not in excess of 6.3
11 percent.

12 “(iii) The Commissioner may collect the assessment
13 imposed on an attorney under clause (i) by offset from
14 the amount of the fee otherwise required by subparagraph
15 (B) to be paid to the attorney from a claimant’s past-due
16 benefits.

17 “(iv) An attorney subject to an assessment under
18 clause (i) may not, directly or indirectly, request or other-
19 wise obtain reimbursement for such assessment from the
20 claimant whose claim gave rise to the assessment.

21 “(v) Assessments on attorneys collected under this
22 subparagraph shall be deposited in the Treasury in a sepa-
23 rate fund created for this purpose.

24 “(vi) The assessments authorized under this subpara-
25 graph shall be collected and available for obligation only

1 to the extent and in the amount provided in advance in
2 appropriations Acts. Amounts so appropriated are au-
3 thorized to remain available until expended, for adminis-
4 trative expenses in carrying out this title and related
5 laws.”.

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply with respect to fees for rep-
9 resentation of claimants which are first required to
10 be certified or paid under section 1631(d)(2) of the
11 Social Security Act on or after the first day of the
12 first month that begins after 270 days after the date
13 of the enactment of this Act.

14 (2) SUNSET.—Such amendments shall not
15 apply with respect to fees for representation of
16 claimants in the case of any claim for benefits with
17 respect to which the agreement for representation is
18 entered into after 5 years after the date on which
19 the Commissioner of Social Security first imple-
20 ments the amendments made by this section.

21 (c) STUDY REGARDING FEE-WITHHOLDING FOR
22 NON-ATTORNEY REPRESENTATIVES.—

23 (1) STUDY.—As soon as practicable after the
24 date of the enactment of this Act, the Comptroller
25 General of the United States shall undertake a study

1 regarding fee-withholding for non-attorney rep-
2 representatives representing claimants before the Social
3 Security Administration.

4 (2) MATTERS TO BE STUDIED.—In conducting
5 the study under this subsection, the Comptroller
6 General shall—

7 (A) compare the non-attorney representa-
8 tives who seek fee approval for representing
9 claimants before the Social Security Adminis-
10 tration to attorney representatives who seek
11 such fee approval, with regard to—

12 (i) their training, qualifications, and
13 competency,

14 (ii) the type and quality of services
15 provided, and

16 (iii) the extent to which claimants are
17 protected through oversight of such rep-
18 resentatives by the Social Security Admin-
19 istration or other organizations, and

20 (B) consider the potential results of ex-
21 tending to non-attorney representatives the fee
22 withholding procedures that apply under titles
23 II and XVI of the Social Security Act for the
24 payment of attorney fees, including the effect
25 on claimants and program administration.

1 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
2 **IN CONNECTION WITH DEMONSTRATION**
3 **PROJECTS PROVIDING FOR REDUCTIONS IN**
4 **DISABILITY INSURANCE BENEFITS BASED ON**
5 **EARNINGS.**

6 Section 302(c) of the Ticket to Work and Work In-
7 centives Improvement Act of 1999 (42 U.S.C. 434 note)
8 is amended by striking “(42 U.S.C. 401 et seq.),” and
9 inserting “(42 U.S.C. 401 et seq.) and the requirements
10 of section 1148 of such Act (42 U.S.C. 1320b–19) as they
11 relate to the program established under title II of such
12 Act,”.

13 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
14 **VIDED FOR REDUCTIONS IN DISABILITY IN-**
15 **SURANCE BENEFITS BASED ON EARNINGS.**

16 Section 302(f) of the Ticket to Work and Work In-
17 centives Improvement Act of 1999 (42 U.S.C. 434 note)
18 is amended to read as follows:

19 “(f) EXPENDITURES.—Administrative expenses for
20 demonstration projects under this section shall be paid
21 from funds available for the administration of title II or
22 XVIII of the Social Security Act, as appropriate. Benefits
23 payable to or on behalf of individuals by reason of partici-
24 pation in projects under this section shall be made from
25 the Federal Disability Insurance Trust Fund and the Fed-
26 eral Old-Age and Survivors Insurance Trust Fund, as de-

1 terminated appropriate by the Commissioner of Social Secu-
2 rity, and from the Federal Hospital Insurance Trust Fund
3 and the Federal Supplementary Medical Insurance Trust
4 Fund, as determined appropriate by the Secretary of
5 Health and Human Services, from funds available for ben-
6 efits under such title II or XVIII.”.

7 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
8 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
9 **UALS.**

10 (a) FEDERAL WORK INCENTIVES OUTREACH PRO-
11 GRAM.—

12 (1) IN GENERAL.—Section 1149(c)(2) of the
13 Social Security Act (42 U.S.C. 1320b–20(c)(2)) is
14 amended to read as follows:

15 “(2) DISABLED BENEFICIARY.—The term ‘dis-
16 abled beneficiary’ means an individual—

17 “(A) who is a disabled beneficiary as de-
18 fined in section 1148(k)(2) of this Act;

19 “(B) who is receiving a cash payment de-
20 scribed in section 1616(a) of this Act or a sup-
21 plementary payment described in section
22 212(a)(3) of Public Law 93–66 (without regard
23 to whether such payment is paid by the Com-
24 missioner pursuant to an agreement under sec-

1 tion 1616(a) of this Act or under section
2 212(b) of Public Law 93-66);

3 “(C) who, pursuant to section 1619(b) of
4 this Act, is considered to be receiving benefits
5 under title XVI of this Act; or

6 “(D) who is entitled to benefits under part
7 A of title XVIII of this Act by reason of the pe-
8 nultimate sentence of section 226(b) of this
9 Act.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by this subsection shall apply with respect to grants,
12 cooperative agreements, or contracts entered into on
13 or after the date of the enactment of this Act.

14 (b) STATE GRANTS FOR WORK INCENTIVES ASSIST-
15 ANCE.—

16 (1) DEFINITION OF DISABLED BENEFICIARY.—
17 Section 1150(g)(2) of such Act (42 U.S.C. 1320b-
18 21(g)(2)) is amended to read as follows:

19 “(2) DISABLED BENEFICIARY.—The term ‘dis-
20 abled beneficiary’ means an individual—

21 “(A) who is a disabled beneficiary as de-
22 fined in section 1148(k)(2) of this Act;

23 “(B) who is receiving a cash payment de-
24 scribed in section 1616(a) of this Act or a sup-
25 plementary payment described in section

1 212(a)(3) of Public Law 93-66 (without regard
2 to whether such payment is paid by the Com-
3 missioner pursuant to an agreement under sec-
4 tion 1616(a) of this Act or under section
5 212(b) of Public Law 93-66);

6 “(C) who, pursuant to section 1619(b) of
7 this Act, is considered to be receiving benefits
8 under title XVI of this Act; or

9 “(D) who is entitled to benefits under part
10 A of title XVIII of this Act by reason of the pe-
11 nultimate sentence of section 226(b) of this
12 Act.”.

13 (2) ADVOCACY OR OTHER SERVICES NEEDED
14 TO MAINTAIN GAINFUL EMPLOYMENT.—Section
15 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2))
16 is amended by striking “secure or regain” and in-
17 serting “secure, maintain, or regain”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply with respect to pay-
20 ments provided after the date of the enactment of
21 this Act.

1 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**
2 **MENT FOR CERTAIN PURPOSES OF INDI-**
3 **VIDUAL WORK PLANS UNDER THE TICKET TO**
4 **WORK AND SELF-SUFFICIENCY PROGRAM.**

5 (a) **IN GENERAL.**—Section 1148(g)(1) of the Social
6 Security Act (42 U.S.C. 1320b–19) is amended by adding
7 at the end, after and below subparagraph (E), the fol-
8 lowing new sentence:

9 “An individual work plan established pursuant to
10 this subsection shall be treated, for purposes of sec-
11 tion 51(d)(6)(B)(i) of the Internal Revenue Code of
12 1986, as an individualized written plan for employ-
13 ment under a State plan for vocational rehabilitation
14 services approved under the Rehabilitation Act of
15 1973.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 subsection (a) shall take effect as if included in section
18 505 of the Ticket to Work and Work Incentives Improve-
19 ment Act of 1999 (Public Law 106–170; 113 Stat. 1921).

20 **Subtitle B—Miscellaneous**
21 **Amendments**

22 **SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN**
23 **REMAND CASES FULLY FAVORABLE TO THE**
24 **CLAIMANT.**

25 (a) **IN GENERAL.**—Section 205(g) of the Social Secu-
26 rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-

1 tence by striking “and a transcript” and inserting “and,
2 in any case in which the Commissioner has not made a
3 decision fully favorable to the individual, a transcript”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 this section shall apply with respect to final determina-
6 tions issued (upon remand) on or after the date of the
7 enactment of this Act.

8 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
9 **FROM THE UNITED STATES.**

10 (a) **IN GENERAL.**—Paragraphs (1) and (2) of section
11 202(n) of the Social Security Act (42 U.S.C. 402(n)(1),
12 (2)) are each amended by striking “or (1)(E)”.

13 (b) **EFFECTIVE DATE.**—The amendment made by
14 this section to section 202(n)(1) of the Social Security Act
15 shall apply to individuals with respect to whom the Com-
16 missioner of Social Security receives a removal notice from
17 the Attorney General after the date of the enactment of
18 this Act. The amendment made by this section to section
19 202(n)(2) of the Social Security Act shall apply with re-
20 spect to removals occurring after the date of the enact-
21 ment of this Act.

22 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**
23 **QUIREMENTS.**

24 Section 3003(a)(1) of the Federal Reports Elimini-
25 nation and Sunset Act of 1995 (31 U.S.C. 1113 note)

1 shall not apply to any report required to be submitted
2 under any of the following provisions of law:

3 (1)(A) Section 201(c)(2) of the Social Security
4 Act (42 U.S.C. 401(c)(2)).

5 (B) Section 1817(b)(2) of the Social Security
6 Act (42 U.S.C. 1395i(b)(2)).

7 (C) Section 1841(b)(2) of the Social Security
8 Act (42 U.S.C. 1395t(b)(2)).

9 (2)(A) Section 221(c)(3)(C) of the Social Secu-
10 rity Act (42 U.S.C. 421(c)(3)(C)).

11 (B) Section 221(i)(3) of the Social Security Act
12 (42 U.S.C. 421(i)(3)).

13 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**
14 **CERTAIN SURVIVOR BENEFITS.**

15 (a) WIDOWS.—Section 216(c) of the Social Security
16 Act (42 U.S.C. 416(c)) is amended—

17 (1) by redesignating subclauses (A) through (C)
18 of clause (6) as subclauses (i) through (iii), respec-
19 tively;

20 (2) by redesignating clauses (1) through (6) as
21 clauses (A) through (F), respectively;

22 (3) in clause (E) (as redesignated), by inserting
23 “except as provided in paragraph (2),” before “she
24 was married”;

25 (4) by inserting “(1)” after “(c)”; and

1 (5) by adding at the end the following new
2 paragraph:

3 “(2) The requirements of paragraph (1)(E) in con-
4 nection with the surviving wife of an individual shall be
5 treated as satisfied if—

6 “(A) the individual had been married prior to
7 the individual’s marriage to the surviving wife,

8 “(B) the prior wife was institutionalized during
9 the individual’s marriage to the prior wife due to
10 mental incompetence or similar incapacity,

11 “(C) during the period of the prior wife’s insti-
12 tutionalization, the individual would have divorced
13 the prior wife and married the surviving wife, but
14 the individual did not do so because such divorce
15 would have been unlawful, by reason of the prior
16 wife’s institutionalization, under the laws of the
17 State in which the individual was domiciled at the
18 time (as determined based on evidence satisfactory
19 to the Commissioner of Social Security),

20 “(D) the prior wife continued to remain institu-
21 tionalized up to the time of her death, and

22 “(E) the individual married the surviving wife
23 within 60 days after the prior wife’s death.”.

24 (b) WIDOWERS.—Section 216(g) of such Act (42
25 U.S.C. 416(g)) is amended—

- 1 (1) by redesignating subclauses (A) through (C)
2 of clause (6) as subclauses (i) through (iii), respec-
3 tively;
- 4 (2) by redesignating clauses (1) through (6) as
5 clauses (A) through (F), respectively;
- 6 (3) in clause (E) (as redesignated), by inserting
7 “except as provided in paragraph (2),” before “he
8 was married”;
- 9 (4) by inserting “(1)” after “(g)”; and
- 10 (5) by adding at the end the following new
11 paragraph:
- 12 “(2) The requirements of paragraph (1)(E) in con-
13 nection with the surviving husband of an individual shall
14 be treated as satisfied if—
- 15 “(A) the individual had been married prior to
16 the individual’s marriage to the surviving husband,
- 17 “(B) the prior husband was institutionalized
18 during the individual’s marriage to the prior hus-
19 band due to mental incompetence or similar inca-
20 pacity,
- 21 “(C) during the period of the prior husband’s
22 institutionalization, the individual would have di-
23 vorced the prior husband and married the surviving
24 husband, but the individual did not do so because
25 such divorce would have been unlawful, by reason of

1 the prior husband's institutionalization, under the
2 laws of the State in which the individual was domi-
3 ciled at the time (as determined based on evidence
4 satisfactory to the Commissioner of Social Security),

5 “(D) the prior husband continued to remain in-
6 stitutionalized up to the time of his death, and

7 “(E) the individual married the surviving hus-
8 band within 60 days after the prior husband's
9 death.”.

10 (c) CONFORMING AMENDMENT.—Section 216(k) of
11 such Act (42 U.S.C. 416(k)) is amended by striking
12 “clause (5) of subsection (c) or clause (5) of subsection
13 (g)” and inserting “clause (E) of subsection (c)(1) or
14 clause (E) of subsection (g)(1)”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall be effective with respect to applications
17 for benefits under title II of the Social Security Act filed
18 during months ending after the date of the enactment of
19 this Act.

1 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND**
2 **SECA TAX EXEMPTIONS FOR AN INDIVIDUAL**
3 **WHOSE EARNINGS ARE SUBJECT TO THE**
4 **LAWS OF A TOTALIZATION AGREEMENT**
5 **PARTNER.**

6 Sections 1401(c), 3101(c), and 3111(c) of the Inter-
7 nal Revenue Code of 1986 are each amended by striking
8 “to taxes or contributions for similar purposes under” and
9 inserting “exclusively to the laws applicable to”.

10 **SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYS-**
11 **TEM FOR PUBLIC EMPLOYEES IN KENTUCKY.**

12 (a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social
13 Security Act (42 U.S.C. 418(d)(6)(C)) is amended by in-
14 serting “Kentucky,” after “Illinois,”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 subsection (a) takes effect on January 1, 2003.

17 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY AD-**
18 **VISORY BOARD.**

19 (a) **IN GENERAL.**—Subsection (f) of section 703 of
20 the Social Security Act (42 U.S.C. 903(f)) is amended to
21 read as follows:

22 “Compensation, Expenses, and Per Diem
23 “(f) A member of the Board shall, for each day (in-
24 cluding traveltime) during which the member is attending
25 meetings or conferences of the Board or otherwise engaged
26 in the business of the Board, be compensated at the daily

1 rate of basic pay for level IV of the Executive Schedule.
2 While serving on business of the Board away from their
3 homes or regular places of business, members may be al-
4 lowed travel expenses, including per diem in lieu of sub-
5 sistence, as authorized by section 5703 of title 5, United
6 States Code, for persons in the Government employed
7 intermittently.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall be effective as of January 1, 2003.

10 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
11 **MENT FOR APPLICATION OF GOVERNMENT**
12 **PENSION OFFSET EXEMPTION.**

13 (a) WIFE’S INSURANCE BENEFITS.—Section
14 202(b)(4)(A) of the Social Security Act (42 U.S.C.
15 402(b)(4)(A)) is amended by striking “if, on” and insert-
16 ing “if, during any portion of the last 60 months of such
17 service ending with”.

18 (b) HUSBAND’S INSURANCE BENEFITS.—Section
19 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is
20 amended by striking “if, on” and inserting “if, during any
21 portion of the last 60 months of such service ending with”.

22 (c) WIDOW’S INSURANCE BENEFITS.—Section
23 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is
24 amended by striking “if, on” and inserting “if, during any
25 portion of the last 60 months of such service ending with”.

1 (d) WIDOWER'S INSURANCE BENEFITS.—Section
2 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is
3 amended by striking “if, on” and inserting “if, during any
4 portion of the last 60 months of such service ending with”.

5 (e) MOTHER'S AND FATHER'S INSURANCE BENE-
6 FITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C.
7 402(g)(4)(A)) is amended by striking “if, on” and insert-
8 ing “if, during any portion of the last 60 months of such
9 service ending with”.

10 (f) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to applications for
12 benefits under title II of the Social Security Act filed on
13 or after the first day of the first month that begins after
14 the date of the enactment of this Act, except that such
15 amendments shall not apply in connection with monthly
16 periodic benefits of any individual based on earnings while
17 in service described in section 202(b)(4)(A), 202(c)(2)(A),
18 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act
19 (in the matter preceding clause (i) thereof)—

20 (1) if the last day of such service occurs before
21 the end of the 90-day period following the date of
22 the enactment of this Act, or

23 (2) in any case in which the last day of such
24 service occurs after the end of such 90-day period,
25 such individual performed such service during such

1 90-day period which constituted “employment” as
2 defined in section 210 of such Act, and all such
3 service subsequently performed by such individual
4 has constituted such “employment”.

5 **Subtitle C—Technical Amendments**

6 **SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-** 7 **SIBLE AGENCY HEAD.**

8 Section 1143 of the Social Security Act (42
9 U.S.C. 1320b–13) is amended—

10 (1) by striking “Secretary” the first place it ap-
11 pears and inserting “Commissioner of Social Secu-
12 rity”; and

13 (2) by striking “Secretary” each subsequent
14 place it appears and inserting “Commissioner”.

15 **SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-** 16 **MENT BENEFITS OF MINISTERS.**

17 (a) IN GENERAL.—Section 211(a)(7) of the Social
18 Security Act (42 U.S.C. 411(a)(7)) is amended by insert-
19 ing “, but shall not include in any such net earnings from
20 self-employment the rental value of any parsonage or any
21 parsonage allowance (whether or not excluded under sec-
22 tion 107 of the Internal Revenue Code of 1986) provided
23 after the individual retires, or any other retirement benefit
24 received by such individual from a church plan (as defined

1 in section 414(e) of such Code) after the individual re-
2 tires” before the semicolon.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to years beginning before, on, or
5 after December 31, 1994.

6 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
7 **TIC EMPLOYMENT.**

8 (a) AMENDMENT TO INTERNAL REVENUE CODE.—
9 Section 3121(a)(7)(B) of the Internal Revenue Code of
10 1986 is amended by striking “described in subsection
11 (g)(5)” and inserting “on a farm operated for profit”.

12 (b) AMENDMENT TO SOCIAL SECURITY ACT.—Sec-
13 tion 209(a)(6)(B) of the Social Security Act (42
14 U.S.C. 409(a)(6)(B)) is amended by striking “described
15 in section 210(f)(5)” and inserting “on a farm operated
16 for profit”.

17 (c) CONFORMING AMENDMENT.—Section 3121(g)(5)
18 of such Code and section 210(f)(5) of such Act (42
19 U.S.C. 410(f)(5)) are amended by striking “or is domes-
20 tic service in a private home of the employer”.

21 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**
22 **ERENCES.**

23 (a) CORRECTION OF TERMINOLOGY AND CITATIONS
24 RESPECTING REMOVAL FROM THE UNITED STATES.—
25 Section 202(n) of the Social Security Act (42

1 U.S.C. 402(n)) (as amended by section 412) is amended
2 further—

3 (1) by striking “deportation” each place it ap-
4 pears and inserting “removal”;

5 (2) by striking “deported” each place it appears
6 and inserting “removed”;

7 (3) in paragraph (1) (in the matter preceding
8 subparagraph (A)), by striking “under section
9 241(a) (other than under paragraph (1)(C) there-
10 of)” and inserting “under section 237(a) (other than
11 paragraph (1)(C) thereof) or 212(a)(6)(A)”;

12 (4) in paragraph (2), by striking “under any of
13 the paragraphs of section 241(a) of the Immigration
14 and Nationality Act (other than under paragraph
15 (1)(C) thereof)” and inserting “under any of the
16 paragraphs of section 237(a) of the Immigration and
17 Nationality Act (other than paragraph (1)(C) there-
18 of) or under section 212(a)(6)(A) of such Act”;

19 (5) in paragraph (3)—

20 (A) by striking “paragraph (19) of section
21 241(a)” and inserting “subparagraph (D) of
22 section 237(a)(4)”;

23 (B) by striking “paragraph (19)” and in-
24 serting “subparagraph (D)”;

1 (6) in the heading, by striking “Deportation”
2 and inserting “Removal”.

3 (b) CORRECTION OF CITATION RESPECTING THE
4 TAX DEDUCTION RELATING TO HEALTH INSURANCE
5 COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section
6 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amend-
7 ed by striking “section 162(m)” and inserting “section
8 162(l)”.

9 (c) ELIMINATION OF REFERENCE TO OBSOLETE 20-
10 DAY AGRICULTURAL WORK TEST.—Section 3102(a) of
11 the Internal Revenue Code of 1986 is amended by striking
12 “and the employee has not performed agricultural labor
13 for the employer on 20 days or more in the calendar year
14 for cash remuneration computed on a time basis”.

15 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**
16 **PLOYMENT INCOME IN COMMUNITY PROP-**
17 **ERTY STATES.**

18 (a) SOCIAL SECURITY ACT AMENDMENT.—Section
19 211(a)(5)(A) of the Social Security Act (42
20 U.S.C. 411(a)(5)(A)) is amended by striking “all of the
21 gross income” and all that follows and inserting “the gross
22 income and deductions attributable to such trade or busi-
23 ness shall be treated as the gross income and deductions
24 of the spouse carrying on such trade or business or, if
25 such trade or business is jointly operated, treated as the

1 gross income and deductions of each spouse on the basis
2 of their respective distributive share of the gross income
3 and deductions;”.

4 (b) INTERNAL REVENUE CODE OF 1986 AMEND-
5 MENT.—Section 1402(a)(5)(A) of the Internal Revenue
6 Code of 1986 is amended by striking “all of the gross in-
7 come” and all that follows and inserting “the gross income
8 and deductions attributable to such trade or business shall
9 be treated as the gross income and deductions of the
10 spouse carrying on such trade or business or, if such trade
11 or business is jointly operated, treated as the gross income
12 and deductions of each spouse on the basis of their respec-
13 tive distributive share of the gross income and deductions;
14 and”.

Union Calendar No. 28

108TH CONGRESS
1ST SESSION

H. R. 743

[Report No. 108-46]

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

MARCH 24, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

SOCIAL SECURITY PROTECTION ACT OF 2003

MARCH 24, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 743]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Summary and Background	23
A. Purpose and Summary	23
B. Background and Need for Legislation	24
C. Legislative History	25
II. Explanation of the Bill	27
Title I. Protection of Beneficiaries	27
Subtitle A—Representative Payees	27
A. Authority to reissue benefits misused by organizational representative payees (sec. 101 of the bill)	27
B. Oversight of representative payees (sec. 102 of the bill)	28
C. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year, or fleeing prosecution, custody, or confinement (sec. 103 of the bill)	29
D. Fee forfeiture in case of benefit misuse by representative payees (sec. 104 of the bill)	30
E. Liability of representative payees for misused benefits (sec. 105 of the bill)	31
F. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting (sec. 106 of the bill)	31

Subtitle B—Enforcement	32
G. Civil monetary penalty authority with respect to wrongful conversions by representative payees (sec. 111 of the bill)	32
Title II. Program Protections	33
A. Civil monetary penalty authority with respect to knowing withholding of material facts (sec. 201 of the bill)	33
B. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries (sec. 202 of the bill)	34
C. Denial of Title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole (sec. 203 of the bill)	35
D. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration (sec. 204 of the bill)	36
E. Refusal to recognize certain individuals as claimant representatives (sec. 205 of the bill)	37
F. Penalty for corrupt or forcible interference with administration of Social Security Act (sec. 206 of the bill)	38
G. Use of symbols, emblems, or names in reference to Social Security or Medicare (sec. 207 of the bill)	39
H. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity (sec. 208 of the bill)	40
I. Authority for judicial orders of restitution (sec. 209 of the bill)	41
Title III. Attorney Fee Payment System Improvements	42
A. Cap on attorney assessments (sec. 301 of the bill)	42
B. Extension of attorney fee payment system to Title XVI claims (sec. 302 of the bill)	42
Title IV. Miscellaneous and Technical Amendments	43
Subtitle A—Amendments relating to the Ticket to Work and Work Incentives Improvement Act of 1999	43
A. Application of demonstration authority sunset date to new projects (sec. 401 of the bill)	43
B. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings (sec. 402 of the bill)	44
C. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings (sec. 403 of the bill)	45
D. Availability of Federal and State work incentive services to additional individuals (sec. 404 of the bill)	46
E. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program (sec. 405 of the bill)	47
Subtitle B—Miscellaneous Amendments	49
F. Elimination of transcript requirement in remand cases fully favorable to the claimant (sec. 411 of the bill)	49
G. Nonpayment of benefits upon removal from the United States (sec. 412 of the bill)	49
H. Reinstatement of certain reporting requirements (sec. 413 of the bill)	50
I. Clarification of definitions regarding certain survivor benefits (sec. 414 of the bill)	50
J. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner (sec. 415 of the bill)	51
K. Coverage under divided retirement system for public employees in Kentucky (sec. 416 of the bill)	52
L. Compensation for the Social Security Advisory Board (sec. 417 of the bill)	53
M. 60-month period of employment requirement for application of government pension offset exemption (sec. 418 of the bill)	54
Subtitle C—Technical Amendments	55
N. Technical correction relating to responsible agency head (sec. 421 of the bill)	55
O. Technical correction relating to retirement benefits of ministers (sec. 422 of the bill)	56

P. Technical corrections relating to domestic employment (sec. 423 of the bill)	56
Q. Technical corrections of outdated references (sec. 424 of the bill) ..	57
R. Technical correction respecting self-employment income in community property States (sec. 425 of the bill)	57
III. Votes of the Committee	58
IV. Budget Effects of the Bill	60
A. Committee Estimate of Budgetary Effects	60
B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority	60
C. Cost Estimate Prepared by the Congressional Budget Office	60
D. Macroeconomic Impact Analysis	70
V. Other Matters To Be Discussed Under the Rules of the House	70
A. Committee Oversight Findings and Recommendations	70
B. Statement of General Performance Goals and Objectives	70
C. Constitutional Authority Statement	70
D. Information Relating to Unfunded Mandates	71
E. Applicability of House Rule XXI 5(b)	71
F. Tax Complexity Analysis	71
VI. Changes in Existing Law Made by the Bill, as Reported	71

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Social Security Protection Act of 2003”.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.
 Sec. 102. Oversight of representative payees.
 Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
 Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
 Sec. 105. Liability of representative payees for misused benefits.
 Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
 Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
 Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
 Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
 Sec. 205. Refusal to recognize certain individuals as claimant representatives.
 Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
 Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
 Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
 Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
 Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.
 Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
 Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
 Sec. 404. Availability of Federal and State work incentive services to additional individuals.
 Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

- Sec. 412. Nonpayment of benefits upon removal from the United States.
 Sec. 413. Reinstatement of certain reporting requirements.
 Sec. 414. Clarification of definitions regarding certain survivor benefits.
 Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
 Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
 Sec. 417. Compensation for the Social Security Advisory Board.
 Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.
 Sec. 422. Technical correction relating to retirement benefits of ministers.
 Sec. 423. Technical corrections relating to domestic employment.
 Sec. 424. Technical corrections of outdated references.
 Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(A) is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of paragraph (4)(B)); or

“(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).”

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

“(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this paragraph.”

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(A) is not an individual; or

“(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2).”

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

“(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.”

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking “for his or her benefit” and inserting “for his or her use and benefit”.

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(i) is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of subparagraph (D)(ii)); or

“(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual’s benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).”

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking “and” at the end;

(B) in paragraph (13), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual’s (or spouse’s) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.”

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

“(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this clause.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in paragraph (9))”;

(B) in paragraph (3)(F), by striking “community-based nonprofit social service agencies” and inserting “certified community-based nonprofit social service agencies (as defined in paragraph (9))”;

(C) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (9))”; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

“(9) For purposes of this subsection, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.”

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and in-

serting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following new subparagraph:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate."

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

"(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency

that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

“(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

“(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

“(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(A) the number of such reviews;

“(B) the results of such reviews;

“(C) the number of cases in which the representative payee was changed and why;

“(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(E) the number of cases discovered in which there was a misuse of funds;

“(F) how any such cases of misuse of funds were dealt with by the Commissioner;

“(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(H) such other information as the Commissioner deems appropriate.”

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

“(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

“(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

“(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

“(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

“(I) the number of the reviews;

“(II) the results of such reviews;

“(III) the number of cases in which the representative payee was changed and why;

“(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(V) the number of cases discovered in which there was a misuse of funds;

“(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

“(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(VIII) such other information as the Commissioner deems appropriate.”

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

- (A) by striking “and” at the end of subclause (III);
- (B) by redesignating subclause (IV) as subclause (VI); and
- (C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

“(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and”;

(2) in subparagraph (B), by adding at the end the following new clause:

“(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 202(x)(1)(A)(iv),

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”;

(3) in subparagraph (C)(i)(II), by striking “subparagraph (B)(i)(IV),” and inserting “subparagraph (B)(i)(VI)” and striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(VI)”;

(4) in subparagraph (C)(i)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following new subclauses:

“(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

“(V) such person is person described in section 202(x)(1)(A)(iv).”

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following new subparagraphs:

“(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(E) obtain information concerning whether such person is a person described in section 804(a)(2); and”;

(2) in subsection (b), by adding at the end 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 (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(A) such person is described in section 804(a)(2),

“(B) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(C) the location or apprehension of such person is within the officer’s official duties.”; and

(3) in subsection (d)(1)—

(A) by striking "or" at the end of subparagraph (B);
 (B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

"(E) such person is a person described in section 804(a)(2)."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

"(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and";

(2) in clause (iii)(II)—

(A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and

(B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)";

(3) in clause (iii)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

"(V) such person is a person described in section 1611(e)(4)(A)."; and

(4) by adding at the end the following new clause:

"(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 1611(e)(4)(A),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Secretary" and inserting the following:

"A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner".

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(4) by inserting after paragraph (6) the following new paragraph:

"(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

"(1) LIABILITY FOR MISUSED AMOUNTS.—

"(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:

“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.

“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

“(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.”

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

“(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,"

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking "who" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,"

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section,"

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary—

"(I) is described in clause (iv) or (v) of paragraph (1)(A); and

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties."

(b) **REGULATIONS.**—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.**—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

“(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

“(i) explains that the product or service is available free of charge from the Social Security Administration, and

“(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

“(B) Subparagraph (A) shall not apply to any offer—

“(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

“(ii) to prepare, or assist in the preparation of, an individual’s plan for achieving self-support under title XVI.”; and

(2) in the heading, by striking “PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE” and inserting “PROHIBITIONS RELATING TO REFERENCES”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: “Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.”.

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

“SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term ‘threats of force’ means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.”.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) **IN GENERAL.**—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,”; by striking “or ‘Medicaid,’” and inserting “‘Medicaid,’ ‘Death Benefits Update,’ ‘Federal Benefit Information,’ ‘Funeral Expenses,’ or ‘Final Supplemental Plan,’” and by inserting “‘CMS,’” after “‘HCFA,’”;

(2) in subparagraph (B), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” each place it appears; and

(3) in the matter following subparagraph (B), by striking “the Health Care Financing Administration,” each place it appears and inserting “the Centers for Medicare & Medicaid Services.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) **IN GENERAL.**—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

“(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

“(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

“(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

“(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) **AMENDMENTS TO TITLE II.**—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”

(b) **AMENDMENTS TO TITLE VIII.**—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking “(i) **RESTITUTION.**—In any case where” and inserting the following:

“(i) **RESTITUTION.**—

“(1) **IN GENERAL.**—In any case where”; and

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

“(2) **COURT ORDER FOR RESTITUTION.**—

“(A) **IN GENERAL.**—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in

lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

“(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.”

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”

(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

“(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

“(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting “, except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”; and

(2) by adding at the end the following new sentence: “In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified

or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking “section 206(a)” and inserting “section 206”;

(B) by striking “(other than paragraph (4) thereof)” and inserting “(other than subsections (a)(4) and (d) thereof)”; and

(C) by striking “paragraph (2) thereof” and inserting “such section”;

(2) in subparagraph (A)(i), by striking “in subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)”, and by striking “and” at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

“(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A) or the requirements of due process of law’ for the phrase ‘subsection (g) or (h) of section 223’;

“(iii) by substituting, in subsection (a)(2)(C)(i), the phrase ‘under title II’ for the phrase ‘under title XVI’;

“(iv) by substituting, in subsection (b)(1)(A), the phrase ‘pay the amount of such fee’ for the phrase ‘certify the amount of such fee for payment’ and by striking, in subsection (b)(1)(A), the phrase ‘or certified for payment’; and

“(v) by substituting, in subsection (b)(1)(B)(ii), the phrase ‘deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)’ for the phrase ‘determined before any applicable reduction under section 1127(a)’.”; and

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

“(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

“(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

“(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant’s past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

“(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

“(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant’s past-due benefits.

“(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

“(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

“(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) **SUNSET.**—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

(c) **STUDY REGARDING FEE-WITHOLDING FOR NON-ATTORNEY REPRESENTATIVES.**—

(1) **STUDY.**—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) **MATTERS TO BE STUDIED.**—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

- (i) their training, qualifications, and competency,
- (ii) the type and quality of services provided, and
- (iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General’s study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2004”; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.”

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.)” and inserting “(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.”

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.”

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) **FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—**

(1) **IN GENERAL.—**Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.—**The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”

(2) **EFFECTIVE DATE.—**The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) **STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—**

(1) **DEFINITION OF DISABLED BENEFICIARY.—**Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.—**The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”

(2) **ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—**Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) **EFFECTIVE DATE.—**The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **IN GENERAL.—**Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) **IN GENERAL.**—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) **IN GENERAL.**—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking “or (1)(E)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

- (1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).
- (B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).
- (C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).
- (2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).
- (B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

- (1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;
- (2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;
- (3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;
- (4) by inserting “(1)” after “(c)”; and
- (5) by adding at the end the following new paragraph:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”

(b) **WIDOWERS.**—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

- (1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;
- (2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”; and

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

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

“(E) the individual married the surviving husband within 60 days after the prior husband’s death.”

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking “clause (5) of subsection (c) or clause (5) of subsection (g)” and inserting “clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking “to taxes or contributions for similar purposes under” and inserting “exclusively to the laws applicable to”.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky,” after “Illinois.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

“Compensation, Expenses, and Per Diem

“(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **WIFE’S INSURANCE BENEFITS.**—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service ending with”.

(b) **HUSBAND’S INSURANCE BENEFITS.**—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service ending with”.

(c) **WIDOW’S INSURANCE BENEFITS.**—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service ending with”.

(d) **WIDOWER’S INSURANCE BENEFITS.**—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service ending with”.

(e) **MOTHER'S AND FATHER'S INSURANCE BENEFITS.**—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service ending with”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)—

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted “employment” as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such “employment”.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

(1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and

(2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) **IN GENERAL.**—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires” before the semicolon.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) **AMENDMENT TO INTERNAL REVENUE CODE.**—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “described in subsection (g)(5)” and inserting “on a farm operated for profit”.

(b) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking “described in section 210(f)(5)” and inserting “on a farm operated for profit”.

(c) **CONFORMING AMENDMENT.**—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking “or is domestic service in a private home of the employer”.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) **CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.**—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking “deportation” each place it appears and inserting “removal”;

(2) by striking “deported” each place it appears and inserting “removed”;

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking “under section 241(a) (other than under paragraph (1)(C) thereof)” and inserting “under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)”;

(4) in paragraph (2), by striking “under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)” and inserting “under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act”;

(5) in paragraph (3)—

(A) by striking “paragraph (19) of section 241(a)” and inserting “subparagraph (D) of section 237(a)(4)”; and

(B) by striking “paragraph (19)” and inserting “subparagraph (D)”; and

(6) in the heading, by striking “Deportation” and inserting “Removal”.

(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking “section 162(m)” and inserting “section 162(l)”.

(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis”.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;”.

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and”.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The “Social Security Protection Act of 2003,” H.R. 743, as amended provides the Social Security Administration (SSA) with the enhanced tools it needs to fight waste, fraud and abuse in Social Security programs.

Protects those unable to manage their financial affairs. The bill protects beneficiaries from representative payees who misuse benefits and enhances oversight of representative payees appointed by the SSA to manage Social Security and Supplemental Security Income (SSI) benefits for individuals who are unable to manage their own financial affairs. Representative payees would be held accountable for their actions when they misuse benefits entrusted to their care.

Deters fraud. The legislation helps stop waste, fraud and abuse within the Social Security programs by denying benefits to fugitive felons and persons violating their probation or parole, creating new penalties to prevent persons from misrepresenting themselves when they offer Social Security-related services, prohibiting individuals who fraudulently conceal work activity from being eligible for a trial work period, allowing Federal courts to order individuals who break Social Security law to make restitution to the Social Security Trust Funds or general fund, and protecting Social Security employees from harm while conducting their duties.

Helps individuals with disabilities. The bill improves access to legal representation for individuals with disabilities applying for benefits who need help negotiating the complex disability application process, enhances provisions of the Ticket to Work program to better enable SSA to test ways of helping individuals with disabilities return to work, and provides more individuals access to support and services to help them work. It also encourages more employers to hire individuals with disabilities by expanding eligibility for the Work Opportunity Tax Credit.

Finally, the legislation corrects, clarifies, or modifies various technical aspects of the law.

B. BACKGROUND AND NEED FOR THE LEGISLATION

The Social Security and SSI programs touch the lives of nearly every American and represent close to one-fourth of all Federal outlays in 2003. Nearly \$500 billion in Social Security and SSI benefits were paid last year to about 50 million retired and disabled workers and their families and survivors, as well as disabled or aged low-income individuals. Given the programs' magnitude and extensive influence over the economic well-being of American workers and their families, it is important to address inadequate protections for beneficiaries and to fight activities that drain resources from Social Security and undermine the financial security of beneficiaries.

Nearly 8 million Social Security and SSI beneficiaries cannot, for physical or mental reasons, manage their own financial affairs. In these cases, the SSA appoints an individual or organization, called a "representative payee," to manage these individuals' benefits. While most representative payees are conscientious and honest, some violate the trust placed in them. In a report issued in June 2002, *Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments*, the SSA Inspector General stated that from January 1997 through December 1999, over 2,400 representative payees misused about \$12 million in benefits. The SSA and the SSA Inspector General have recommended legislation to raise the standards for persons and organizations serving as representative payees and to impose stricter regulation and monetary penalties on those who mismanage benefits.

In addition to protecting the financial security of vulnerable beneficiaries, this bill also picks up where P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), left off in ending benefit payments to fugitive felons and persons who violate their probation or parole. That legislation denied SSI benefits to such individuals; however, they are still allowed to receive Social Security benefits. The Congressional Budget Office estimates \$525 million will be paid in benefits over the next 10 years out of the Social Security Trust Funds to these persons. In an August 2000 report, *Old-Age, Survivors and Disability Insurance Benefits Paid to Fugitives*, the SSA Inspector General estimated about 17,000 fugitives received Social Security benefits between PRWORA's enactment and 1999, and recommended legislation prohibiting payment of Social Security benefits to fugitive felons and probation or parole violators, similar to the SSI provision.

The Protection Act also incorporates recommendations by the SSA Inspector General to provide tools that further safeguard Social Security programs, help shield Social Security employees from harm while conducting their duties, expand the Inspector General's ability to stop perpetrators of fraud through new civil monetary penalties, and prevent persons from misrepresenting themselves as they provide Social Security-related services.

In addition to addressing waste, fraud, and abuse, the bill helps individuals with disabilities by making it easier for them to obtain legal representation when applying for benefits by improving the

attorney fee withholding process. Advocates for individuals with disabilities and claimants' representatives have stated in hearings before the Subcommittee on Social Security that allowing attorneys and claimants for Social Security benefits to sign an agreement requiring the Commissioner to pay the attorney directly from the claimant's past-due benefits has helped ensure there is a pool of private attorneys who are willing and able to help claimants pursue benefits. Extending attorney fee withholding to SSI cases would help expand the pool of attorneys willing to help many low-income SSI claimants to successfully pursue needed benefits. Likewise, advocates for claimant representatives have testified that the SSA's processing fee for withholding the attorney's fee from past-due benefits is excessive, limits the pool of attorneys willing to help claimants, and that reducing the fee would increase availability of representation for claimants.

Besides encouraging representation of claimants seeking benefits, advocates for individuals with disabilities have discussed at hearings and consultations with the Subcommittee on Social Security the need to improve and clarify provisions of the Ticket to Work program by enhancing demonstration projects, making work incentive services available to more individuals, and expanding eligibility for the Work Opportunity Tax Credit. These recommendations are all intended to encourage more disabled beneficiaries to return to work or maintain work effort.

Finally, the bill contains numerous provisions recommended by the SSA aimed at correcting inequities in the law regarding benefit coverage and receipt, as well as making technical corrections to the law. One of these provisions resulted from an August 2002 General Accounting Office (GAO) report, *Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered*. The GAO found that teachers in Texas, and to a lesser extent in Georgia, were using a loophole in the law in order to receive higher spouse or survivor benefits from Social Security. In effect, teachers contributed to Social Security for as little as one day (an average of \$3 in payroll taxes) and qualified for over \$100,000 in spouse or survivor benefits over a lifetime, whereas similar workers who paid into Social Security throughout their careers received little or no spouse or survivor benefits. The GAO recommended amending the law to treat State and local workers the same as Federal workers in applying the exemption.

C. LEGISLATIVE HISTORY

During the 106th Congress, the Subcommittee held hearings on Social Security program integrity on March 30, 2000 (106-38); representative payees on May 4, 2000 (106-57); Social Security number use and misuse on May 9 and 11 (106-108), and July 17, 2000 (106-43); and the processing of attorney's fees on June 14, 2000 (106-70). The information gained from these hearings led to the introduction of H.R. 4857, the "Social Security Number Privacy and Identity Theft Prevention Act of 2000," to enhance privacy protections for individuals, prevent fraudulent misuse of the Social Security number, and provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees. In addition, H.R. 4633 was introduced to improve the SSA payment system for representation of claimants. On July 20,

2000, the Subcommittee ordered favorably reported H.R. 4857, as amended. The Committee on Ways and Means ordered the bill favorably reported, as amended on September 28, 2000 (H. Rept. 106-996 Part 1). The bill was not considered by the full House, as other committees of jurisdiction did not complete consideration of the bill.

In the 107th Congress, on May 10, 2001, the Subcommittee on Social Security held a hearing on the integrity of Social Security programs (107-30). The Subcommittee heard testimony from SSA Inspector General James G. Huse about the need to prohibit payment of Social Security benefits to fugitive felons and improve oversight of representative payees. Fritz Streckewald, Acting Assistant Deputy Commissioner of Disability and Income Security Programs of the SSA, testified about the agency's efforts to improve oversight of representative payees and stop SSI payments to fugitive felons. Advocates of individuals with disabilities expressed support for legislation to improve oversight of representative payees and protect beneficiaries from benefit misuse by representative payees.

On May 17, 2001, the Subcommittee on Social Security held a hearing on processing of attorneys' fees (107-24). Barbara Bovbjerg of the General Accounting Office (GAO) provided testimony on the estimated costs SSA incurs in withholding attorneys' fees from past-due benefits of claimants for Title II benefits, as well as ways the SSA could improve its processing of attorneys' fees. Advocates for claimants' representatives testified about the need to reduce the SSA's processing fees in order to encourage attorneys to accept cases of claimants seeking Social Security benefits. Advocates for claimants' representatives and advocates for individuals with disabilities testified about the need to extend withholding of attorneys' fees from past-due SSI benefits in order to increase the pool of attorneys willing to accept SSI cases.

On July 26, 2001, the Subcommittee on Social Security held a hearing on misleading mailings targeted to seniors (107-44). SSA Inspector General James G. Huse testified on how use of certain phrases and other devices gives the false impression of Federal agency endorsement or origination and is used to mislead seniors into providing personal information and/or sending money.

Information obtained during these hearings and those of the 106th Congress led to the introduction of H.R. 4070, the "Social Security Program Protection Act of 2002." On April 25, 2002, the Subcommittee on Social Security ordered favorably reported to the full Committee H.R. 4070, the "Social Security Program Protection Act of 2002," on a voice vote, with a quorum present. On June 25, 2002, H.R. 4070, as amended, was considered by the House of Representatives under suspension of the rules. On June 26, 2002, the House of Representatives agreed to H.R. 4070 by a recorded vote of 425-0. On November 18, 2002, H.R. 4070, as amended, was passed by the Senate by unanimous consent. The bill, as amended by the Senate, was not considered by the House of Representatives prior to adjournment of the 107th Congress.

Information obtained during hearings in the 106th and 107th Congress, as well as bipartisan support for H.R. 4070, led to introduction of H.R. 743, the "Social Security Protection Act of 2003." On February 27, 2003, the Subcommittee on Social Security held a hearing on the legislation. SSA Inspector General James G. Huse

testified in favor of the bill's provisions to improve representative payee selection and monitoring, to stop Social Security benefit payments to fugitive felons, and to provide civil monetary penalties for certain fraudulent or misleading activities like withholding material information in order to obtain or increase benefits. Barbara Bovbjerg and Dan Bertoni of the GAO provided testimony on the bill's provision implementing the GAO's recommendation to address abuse of the GPO exemption. Advocates for individuals with disabilities testified in support of the bill's provisions to extend attorney fee withholding to SSI claims, improve beneficiary protections with regard to representative payees, and provide improvement and clarification of certain Ticket to Work provisions. Advocates for claimants' representatives provided testimony regarding the bill's provisions to extend attorney fee withholding and cap the SSA's processing fee on attorney fee withholding.

On March 5, H.R. 743, as amended, was considered by the House of Representatives under suspension of the rules, and failed by a vote of 249-180. On March 13, 2003, the Committee on Ways and Means ordered favorably reported H.R. 743, the "Social Security Protection Act," as amended, by a rollcall vote of 35-2.

II. EXPLANATION OF THE BILL

TITLE I. PROTECTION OF BENEFICIARIES

Subtitle A. Representative Payees

A. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES

(Sec. 101 of the Bill)

PRESENT LAW

The Social Security Act requires the re-issuance of benefits misused by any representative payee when the Commissioner finds that the Social Security Administration (SSA) negligently failed to investigate and monitor the payee.

REASON FOR CHANGE

There have been a number of highly publicized cases involving organizational representative payees that have misused large sums of monies paid to them on behalf of the Social Security and Supplemental Security Income (SSI) beneficiaries they represented. In most instances, these organizations operated as criminal enterprises, bent not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went undetected until large sums had been stolen. If the SSA is not shown to be negligent for failing to investigate and monitor the payee, affected beneficiaries may never be repaid or may be repaid only when the representative payee committing misuse makes restitution to the SSA.

Benefit misuse by representative payees who serve a number of beneficiaries can be difficult to detect, since it often involves victims that may have no family members or friends willing or able to help them. Requiring the SSA to reissue benefit payments to these victims of benefit misuse provides essential protection from

financial hardship. Moreover, extending the provision to cases involving individual payees serving fewer beneficiaries may lead to fraudulent claims of misuse. These claims, which often turn on information available only from close family members, would be difficult to assess. Similarly, extension of this provision to these cases could potentially encourage misuse or poor money management by these individual representative payees, if they believe the SSA could eventually pay the beneficiary a second time.

EXPLANATION OF PROVISION

In addition to cases where the SSA negligently failed to investigate and monitor the payee, the provision also requires the Commissioner to re-issue benefits under Titles II, VIII and XVI in any case in which a beneficiary's funds are misused by a representative payee that is not an individual (regardless of whether it is a qualified organization such as a State/local agency or a community nonprofit social service agency) or an individual payee representing 15 or more beneficiaries.

The new provision defines misuse as any case in which a representative payee converts the benefits entrusted to his or her care for purposes other than the "use and benefit" of the beneficiary, and authorizes the Commissioner to define "use and benefit" in regulation.

In crafting a regulatory definition for "use and benefit," the Commissioner should take special care to distinguish between the situation in which the representative payee violates his or her responsibility by converting the benefits to further the payee's own self interest, and the situation in which the payee faithfully serves the beneficiary by using the benefits in a way that principally aids the beneficiary but which also incidentally aids the payee or another individual. For instance, cases in which a representative payee uses the benefits entrusted to his or her care to help pay the rent on an apartment that he or she and the beneficiary share should not be considered misuse.

EFFECTIVE DATE

Applies to any cases of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995. This protects the interests of beneficiaries affected by cases of egregious misuse that have been identified in recent years.

B. OVERSIGHT OF REPRESENTATIVE PAYEES

(Sec. 102 of the Bill)

PRESENT LAW

Present law requires community-based nonprofit social service agencies serving as representative payees to be licensed or bonded. Payees are not required to submit proof of bonding or licensing, and they are not subject to independent audits. In addition, there is no provision requiring periodic on-site reviews of organizational payees (other than the accountability monitoring done for State institutions that serve as representative payees).

REASON FOR CHANGE

Strengthening the bonding and licensing requirements for community-based nonprofit social service agencies would add further safeguards to protect beneficiaries' funds. State licensing provides for some oversight by the State into the organization's business practices, and bonding provides some assurances that a surety company has investigated the organization and approved it for the level of risk associated with the bond. Requiring annual certification as to the licensing and bonding of the payee, as well as submission of audits performed, should help prevent a payee from dropping their licensing or bonding subsequent to the SSA approving them as payee.

On-site periodic visits should be conducted regularly to reduce misuse of funds. To the degree possible, appropriate auditing and accounting standards should be utilized in conducting such reviews.

EXPLANATION OF PROVISION

The new provision requires community-based nonprofit social service agencies serving as representative payees to be both bonded and licensed (provided that licensing is available in the State). In addition, such representative payees must submit yearly proof of bonding and licensing, as well as copies of any independent audits that were performed on the payee since the previous certification.

The new provision also requires the Commissioner of Social Security to conduct periodic onsite reviews of: (1) a person who serves as a representative payee to 15 or more beneficiaries; (2) community-based nonprofit social service agencies serving as representative payees; and, (3) any agency that serves as the representative payee to 50 or more beneficiaries. In addition, the Commissioner is required to submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the reviews conducted in the prior fiscal year.

EFFECTIVE DATE

The bonding, licensing, and audit provisions are effective on the first day of the 13th month following enactment of the legislation. The periodic on-site review provision is effective upon enactment.

C. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR, OR FLEEING PROSECUTION, CUSTODY OR CONFINEMENT

(Sec. 103 of the Bill)

PRESENT LAW

Sections 205, 807, and 1631 of the Social Security Act disqualify individuals from being representative payees if they have been convicted of fraudulent conduct involving Social Security programs.

REASON FOR CHANGE

Prohibiting persons convicted of offenses resulting in imprisonment for more than one year and persons fleeing prosecution, custody or confinement for a felony from serving as representative payees decreases the likelihood of mismanagement or abuse of beneficiaries' funds. Also, allowing such persons to serve as representative payees could raise serious questions about the SSA's stewardship of taxpayer funds. The agency's report will assist Congress in its oversight of the representative payee program.

EXPLANATION OF PROVISION

The new provision expands the scope of disqualification to prohibit an individual from serving as a representative payee if he or she has been convicted of an offense resulting in imprisonment for more than one year, unless the Commissioner determines that payee status would be appropriate despite the conviction. It also disqualifies persons fleeing prosecution, custody, or confinement for a felony from being representative payees. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

The new provision requires the Commissioner, in consultation with the SSA Inspector General, to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating existing procedures and reviews conducted for representative payees to determine whether they are sufficient to protect benefits from being misused.

EFFECTIVE DATE

The first day of the 13th month beginning after the date of enactment, except that the report to Congress is due no later than 270 days after the date of enactment.

D. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES

(Sec. 104 of the Bill)

PRESENT LAW

Certain qualified organizations are authorized to collect a fee for their services. The fee, which is determined by a statutory formula, is deducted from the beneficiary's benefit payments.

REASON FOR CHANGE

Payees who misuse their clients' funds are not properly performing the service for which the fee was paid; therefore, they should forfeit such fees. Permitting the payee to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's needs.

EXPLANATION OF PROVISION

The new provision requires representative payees to forfeit the fee for those months during which the representative payee mis-

used funds, as determined by the Commissioner of Social Security or a court of competent jurisdiction.

EFFECTIVE DATE

Applies to any month involving benefit misuse by a representative payee as determined by the Commissioner or a court of competent jurisdiction after 180 days after the date of enactment.

E. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS
(Sec. 105 of the Bill)

PRESENT LAW

Although the SSA has been provided with expanded authority to recover overpayments (such as the use of tax refund offsets, referral to contract collection agencies, notification of credit bureaus, and administrative offsets of future Federal benefit payments), these tools cannot be used to recoup benefits misused by a representative payee.

REASON FOR CHANGE

Treating misused benefits as overpayments to the representative payee would provide the SSA with additional means for recovering misused payments.

EXPLANATION OF PROVISION

The new provision treats benefits misused by any representative payee (except a Federal, State or local government agency) as an overpayment to the representative payee, thus subjecting the representative payee to current overpayment recovery authorities. Any recovered benefits not already reissued to the beneficiary pursuant to Section 101 of this legislation would be reissued to either the beneficiary or their alternate representative payee, up to the total amount misused.

EFFECTIVE DATE

Applies to benefit misuse by a representative payee in any case where the Commissioner of Social Security or a court of competent jurisdiction makes a determination of misuse after 180 days after the date of enactment.

F. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS
WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED
ACCOUNTING

(Sec. 106 of the Bill)

PRESENT LAW

The Social Security Act requires representative payees to submit accounting reports to the Commissioner of Social Security regarding how a beneficiary's benefit payments were used. A report is required at least annually, but may be required by the Commissioner at any time if the Commissioner has reason to believe the representative payee is misusing benefits.

REASON FOR CHANGE

Accounting reports are an important means of monitoring the activities of representative payees to prevent misuse of benefits. Redirecting benefit payments to the field office would enable the agency to promptly address the failure of the representative payee to file a report.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner of Social Security to require a representative payee to receive any benefits under Titles II, VIII, and XVI in person at a Social Security field office if the representative payee fails to provide a required accounting of benefits. The Commissioner would be required to provide proper notice and the opportunity for a hearing prior to redirecting benefits to the field office.

EFFECTIVE DATE

180 days after the date of enactment.

Subtitle B: Enforcement

G. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO
WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES

(Sec. 111 of the Bill)

PRESENT LAW

Section 1129 of the Social Security Act authorizes the Commissioner to impose a civil monetary penalty (of up to \$5,000 for each violation) along with an assessment (up to twice the amount wrongly paid), upon any person who knowingly uses false information or knowingly omits information to wrongly obtain Title II, VIII or XVI benefits.

REASON FOR CHANGE

Providing authority for SSA to impose civil monetary penalties along with an assessment of up to twice the amount of misused benefits would provide the SSA with an additional means to address benefit misuse by representative payees.

EXPLANATION OF PROVISION

The new provision expands civil monetary penalties authority under Section 1129 to include misuse of Title II, VIII or XVI benefits by representative payees. A civil monetary penalty of up to \$5,000 may be imposed for each violation, along with an assessment of up to twice the amount of misused benefits.

EFFECTIVE DATE

Applies to violations committed after the date of enactment.

TITLE II. PROGRAM PROTECTIONS

A. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS

(Sec. 201 of the Bill)

PRESENT LAW

Section 1129 of the Social Security Act, 42 U.S.C. § 1320a-8, authorizes the Commissioner of Social Security to impose civil monetary penalties and assessments on any person who makes a statement or representation of a material fact for use in determining initial or continuing rights to Title II, VIII, or XVI benefits that the person knows or should know omits a material fact or is false or misleading. In order for the penalty or assessment to be imposed, the law requires an affirmative act on the part of the individual of making (or causing to be made) a statement that omits a material fact or is false or misleading.

Section 1129A, 42 U.S.C. 1320a-8a, provides administrative procedures for imposing penalties of nonpayment of Title II and XVI benefits (6 months for the first violation) for making false statements.

REASON FOR CHANGE

Currently the SSA cannot impose civil monetary penalties and assessments on a person who should have come forward to notify the SSA of changed circumstances that affect eligibility or benefit amount, but did not. To be subject to civil monetary penalties and assessments under the current law, an individual must have made a statement that omitted a material fact or was false or misleading. Examples of the types of individuals intended to be covered under this amendment to Section 1129 and 1129A include (but are not limited to): (1) an individual who has a joint bank account with a beneficiary in which the SSA direct deposited the beneficiary's Social Security checks; upon the death of the beneficiary, this individual fails to advise the SSA of the beneficiary's death, instead spending the proceeds from the deceased beneficiary's Social Security checks; and (2) an individual who is receiving benefits under one SSN while working under another SSN.

This amendment is intended to close this loophole in the current law, but is not intended to expand Section 1129 and 1129A to include those individuals whose failure to come forward to notify the SSA was not done for the purpose of improperly obtaining or continuing to receive benefits. For instance, it is not intended that the expanded authority be used against individuals who do not have the capacity to understand that their failure to come forward is misleading.

EXPLANATION OF PROVISION

By including the phrase "or otherwise withholds disclosure of," in Section 1129 and 1129A, civil monetary penalties and assessments and sanctions could also be imposed for failure to come forward and notify the SSA of changed circumstances that affect eligibility or benefit amount when that person knows or should know that the failure to come forward is misleading.

EFFECTIVE DATE

Applies to violations committed after the date on which the Commissioner implements the centralized computer file described in Section 202.

B. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS
TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN
WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES

(Sec. 202 of the Bill)

PRESENT LAW

Changes in work or earnings status can affect a Title II disability beneficiary's right to continued entitlement to disability benefits. Changes in the amount of earned income can also affect an SSI recipient's continued eligibility for SSI benefits or his or her monthly benefit amount.

The Commissioner has promulgated regulations that require Title II disability beneficiaries to report changes in work or earnings status (20 CFR, § 404.1588) and regulations that require SSI recipients (or their representative payees) to report any increase or decrease in income (20 CFR, §§ 416.704-416.714).

REASON FOR CHANGE

Witnesses have testified before the Social Security Subcommittee and the Human Resources Subcommittee that the SSA does not currently have an effective system in place for processing and recording Title II and Title XVI disability beneficiaries' reports of changes in work and earnings status. Issuing receipts to disabled beneficiaries who make such reports would provide them with proof that they had properly fulfilled their obligation to report these changes.

EXPLANATION OF PROVISION

The new provision requires the Commissioner to issue a receipt to a disabled beneficiary (or representative of a beneficiary) who reports a change in his or her work or earnings status. The Commissioner is required to continue issuing such receipts until the Commissioner has implemented a centralized computer file that would record the date on which the disabled beneficiary (or representative) reported the change in work or earnings status.

This provision requires the Commissioner to begin issuing receipts as soon as possible, but no later than one year after the date of enactment. The Committee on Ways and Means is aware that the SSA has developed software known as the Modernized Return to Work System (MRTW). This software will assist SSA employees in recording information about changes in work and earnings status and in making determinations of whether such changes affect continuing entitlement to disability benefits. The software also has the capability of automatically issuing receipts. The SSA has informed the Committee on Ways and Means that this software is already in use in some of the agency's approximately 1300 local field offices, and that the SSA expects to put it into operation in the remainder of the field offices over the next year. The Committee on

Ways and Means expects that the SSA field offices that are already using the MRTW system will immediately begin issuing receipts to disabled beneficiaries who report changes in work or earnings status, and that the SSA will require the other field offices to begin issuing receipts as these offices begin using the MRTW system over the next year. For disabled Title XVI beneficiaries, if the SSA issues a notice to the beneficiary immediately following the report of earnings that details the effect of the change in income on the monthly benefit amount, this notice would serve as a receipt.

EFFECTIVE DATE

Requires the Commissioner to begin issuing receipts as soon as possible, but no later than one year after the date of enactment.

C. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE

(Sec. 203 of the Bill)

PRESENT LAW

The "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," (PRWORA) P.L. 104-193, included provisions making persons ineligible to receive SSI benefits during any month in which they are fleeing to avoid prosecution, custody, or confinement for a felony, or if they are in violation of a condition of probation or parole. However, this prohibition was not extended to Social Security benefits under Title II.

REASON FOR CHANGE

There are concerns that Social Security benefits, not just Supplemental Security Income and other welfare benefits, are being used to aid flight from justice or other crime. The Congressional Budget Office has estimated that persons fleeing to avoid prosecution for a felony or to avoid custody or confinement after conviction for a felony, or in violation of a condition of probation or parole, will receive \$526 million in Title II Social Security benefits over the next 10 years. The Social Security Inspector General (SSA IG) recommended changing the law to prohibit fugitive felons and other criminals from receiving benefits.

The provision gives the Commissioner authority to pay withheld Title II benefits if there is "good cause." The Commissioner would be required to develop regulations within one year of the date of enactment. This "good cause" discretion is authorized for the Commissioner in cases of Title II benefits, where it was not authorized or intended for programs affected under the similar provision in PRWORA, because workers earn the right to receive benefits for themselves and their families through their career-long Social Security payroll tax contributions.

The good cause exception will provide the Commissioner with the ability to pay benefits under circumstances in which the Commissioner deems withholding of benefits to be inappropriate—for example, but not limited to, situations when Social Security beneficiaries are found to be in flight from a warrant relating to a crime for which a court of competent jurisdiction finds the person not

guilty, or if the charges are dismissed; if a warrant for arrest is vacated; or if probation or parole is not revoked. In such circumstances, it is expected that the Commissioner would pay benefits withheld from the beneficiary for which he or she was otherwise eligible but for the prohibition in this provision.

In testimony received at a February 27, 2003 hearing, the Subcommittee was made aware of instances with respect to the SSI program where there may be mitigating circumstances relating to persons with outstanding warrants for their arrest. In addition, PRWORA implementing instructions have been found to vary between agencies. For example, the Department of Agriculture's Food and Nutrition Service has issued instructions that in order to be considered "fleeing," the individual must have knowledge a warrant has been issued for his or her arrest and that the State agency should verify the individual has such knowledge. In addition, once the person has knowledge of the warrant, either by having received it personally or by being advised of its existence by the State agency, he or she is technically "fleeing" at that time. Finally, the instructions strongly urge the State agency to give the individual an opportunity to submit documentation that the warrant has been satisfied. The Social Security Administration's procedures do not include such instructions.

The SSA IG is conducting an audit on implementation of the fugitive felon provision for the Supplemental Security Income program, which will shed light on the types of crimes beneficiaries committed, law enforcement's pursuit of such criminals, the length of time benefits were suspended, the SSA's handling of these cases, and other issues. The Subcommittee will continue to closely monitor these issues and encourages the Commissioner to review the agency's implementing instructions in light of these circumstances and what constitutes flight under Federal law.

EXPLANATION OF PROVISION

The new provision denies Social Security benefits under Title II to persons fleeing prosecution, custody or confinement for a felony, and to persons violating probation or parole. However, the Commissioner may, for good cause, pay withheld benefits. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

EFFECTIVE DATE

First day of the first month that begins on or after the date that is 9 months after the date of enactment.

D. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION

(Sec. 204 of the Bill)

PRESENT LAW

Section 1140 of the Social Security Act prohibits or restricts various activities involving the use of Social Security and Medicare symbols, emblems, or references that give a false impression that

an item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. It also provides for the imposition of civil monetary penalties with respect to violations of the section.

REASON FOR CHANGE

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. For example, the SSA's Inspector General has encountered business entities that have offered assistance to individuals in changing their names (upon marriage) or in obtaining a Social Security number (upon the birth of a child) for a fee, even though these services are directly available from the SSA for free. The offer from the business entities either did not state at all, or did not clearly state, that these services were available from the SSA for free. These practices can mislead and deceive senior citizens, newlyweds, new parents, and other individuals seeking services or products, who may not be aware that the SSA provides these services for free.

EXPLANATION OF PROVISION

Several individuals and companies offer Social Security-related services for a fee even though the same services are available directly from the SSA free of charge. The new provision requires persons or companies offering such services to include in their offer a statement that the services they provide for a fee are available directly from the SSA free of charge. The statements would be required to comply with standards promulgated through regulation by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility.

EFFECTIVE DATE

Applies to offers of assistance made after the sixth month following the issuance of these standards. Requires the Commissioner to promulgate regulations within 1 year after the date of enactment.

E. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES

(Sec. 205 of the Bill)

PRESENT LAW

An attorney in good standing is entitled to represent claimants before the Commissioner of Social Security. The Commissioner may prescribe rules and regulations governing the recognition of persons other than attorneys representing claimants before the Commissioner. Under present law, attorneys disbarred in one jurisdiction, but licensed to practice in another jurisdiction, must be recognized as a claimant's representative.

REASON FOR CHANGE

This provision would provide additional protections for beneficiaries who may rely on representatives during all phases of their benefit application process. As part of their ongoing oversight of claimant representatives, the Committee on Ways and Means intends to review whether options to establish protections for claimants represented by non-attorneys should be considered.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner to refuse to recognize as a representative, or disqualify as a representative, an attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency. Due process (i.e., notice and an opportunity for a hearing) would be required before taking such action. Also, if a representative has been disqualified or suspended as a result of collecting an unauthorized fee, full restitution is required before reinstatement can be considered.

EFFECTIVE DATE

Upon enactment.

F. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH
ADMINISTRATION OF THE SOCIAL SECURITY ACT

(Sec. 206 of the Bill)

PRESENT LAW

No provision.

REASON FOR CHANGE

This provision extends to SSA employees the same protections provided to employees of the Internal Revenue Service under the Internal Revenue Code of 1954. These protections will allow SSA employees to perform their work with more confidence that they will be safe from harm.

The Internal Revenue Manual defines the term "corruptly" as follows:

"Corruptly" characterizes an attempt to influence any official in his or her official capacity under this title by any improper inducement. For example, an offer of a bribe or a passing of a bribe to an Internal Revenue employee for the purpose of influencing him or her in the performance of his or her official duties is corrupt interference with the administration of Federal laws. (Internal Revenue Manual, [9.5] 11.3.2.2, 4-09-1999.)

EXPLANATION OF PROVISION

The new provision imposes a fine of not more than \$5,000, imprisonment of not more than 3 years, or both, for attempting to intimidate or impede—corruptly or by using force or threats of force—any Social Security Administration (SSA) officer, employee or contractor (including State employees of disability determination services and any individuals designated by the Commissioner)

while they are acting in their official capacities under the Social Security Act. If the offense is committed only by threats of force, the offender is subject to a fine of not more than \$3,000, no more than one year in prison, or both.

The Committee on Ways and Means expects that judgment will be used in enforcing this section. Social Security and SSI disability claimants and beneficiaries, in particular, are frequently subject to multiple, severe life stressors, which may include severe physical, psychological, or financial difficulties. In addition, disability claimants or beneficiaries who encounter delays in approval of initial benefit applications or in post-entitlement actions may incur additional stress, particularly if they have no other source of income. Under such circumstances, claimants or beneficiaries may at times express frustration in an angry manner, without truly intending to threaten or intimidate SSA employees. In addition, approximately 25 percent of Social Security disability beneficiaries and 35 percent of disabled SSI recipients have mental impairments, and such individuals may be less able to control emotional outbursts. These factors should be taken into account in enforcing this provision.

EFFECTIVE DATE

Upon enactment.

G. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE

(Sec. 207 of the Bill)

PRESENT LAW

Section 1140 of the Social Security Act prohibits (subject to civil penalties) the use of Social Security or Medicare symbols, emblems and references on any item in a manner that conveys the false impression that such item is approved, endorsed or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services) or the Department of Health and Human Services.

REASON FOR CHANGE

The SSA Inspector General has found these phrases appearing in mailings, solicitations, or flyers, which, when used with the SSA's words, symbols, emblems, and references may be particularly misleading and more likely to convey the false impression that such item is approved, endorsed, or authorized by the SSA, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. Expansion of this list helps to ensure that individuals receiving any type of mail, solicitations or flyers bearing symbols, emblems or names in reference to Social Security or Medicare are not misled into believing that these agencies approved or endorsed the services or products depicted.

EXPLANATION OF PROVISION

The new provision expands the prohibition in present law to several other references to Social Security and Medicare. This in-

cludes, but is not limited to, "Death Benefits Update," "Federal Benefits Information," and "Final Supplemental Plan."

EFFECTIVE DATE

Applies to items sent after 180 days after the date of enactment.

H. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY

(Sec. 208 of the Bill)

PRESENT LAW

An individual entitled to disability benefits under Title II is entitled to a "trial work period" to test his or her ability to work. The trial work period allows beneficiaries to have earnings from work above a certain amount (\$570 a month in 2003) for up to 9 months (which need not be consecutive) within any 60-month period without any loss of benefits. Presently, Section 222(c) of the Social Security Act does not prohibit a person entitled to disability benefits under Title II from receiving disability benefits during a trial work period, even if convicted by a Federal court for fraudulently concealing work activity during that period.

The SSA's Inspector General has pursued prosecution of Title II disability beneficiaries who fraudulently conceal work activity by applying several criminal statutes, including Section 208(a) of the Social Security Act, and Sections 371 and 641 of Title 18 of the United States Code (Crimes and Criminal Procedures).

REASON FOR CHANGE

Under current law, if an individual is convicted of fraudulently concealing work activity, the dollar loss to the government is calculated based on the benefits that the individual would have received had he or she not concealed the work activity. During the trial work period, disability beneficiaries continue to receive their monthly benefit amount regardless of their work activity. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government, even if the individual fraudulently concealed work activity during that period. As a result, the dollars lost to the government may fall below the thresholds set by the United States Attorneys in cases involving fraudulent concealment of work by Title II disability beneficiaries. In such situations, the case would not be prosecuted, even if the evidence of fraud were very clear.

This provision rectifies the situation by establishing that individuals convicted of fraudulently concealing work activity during the trial work period are not entitled to receive any disability benefits for trial work period months prior to the conviction (but within the same period of disability).

EXPLANATION OF PROVISION

Under the new provision, an individual convicted by a Federal court of fraudulently concealing work activity from the Commissioner of Social Security would not be entitled to receive any disability benefits in any trial work period month and would be liable

for repayment of those benefits, in addition to any restitution, penalties, fines or assessments otherwise due.

Under this provision, concealing work activity is considered to be fraudulent if the individual: (1) provided false information to the SSA about his or her earnings during that period; (2) worked under another identity, including under another person's or a false Social Security number; or (3) took other actions to conceal work activity with the intent to receive benefits to which he or she was not entitled.

EFFECTIVE DATE

Effective with respect to work activity performed after the date of enactment.

I. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION

(Sec. 209 of the Bill)

PRESENT LAW

A court may order restitution when sentencing a defendant convicted of various offenses under Titles 18, 21, and 49 of the United States Code. However, violations of the Social Security Act (42 U.S.C.) are not included among those for which the court may order restitution.

REASON FOR CHANGE

This provision would enhance a judge's ability to compensate the programs and punish persons convicted of violations including, but not limited to, improper receipt of Social Security payments and misuse of Social Security numbers.

EXPLANATION OF PROVISION

This provision amends the Social Security Act to allow a Federal court to order restitution to the Social Security Administration for violations of the Social Security Act. Restitution in connection with benefit misuse by a representative payee would be credited to the Social Security Trust Funds for cases involving OASDI recipients and to the general fund for cases involving Supplemental Security Income and Special Veterans benefits. Other restitution funds, credited to a special fund established in the Treasury, would be available to defray expenses incurred in implementing Title II, Title VIII, and Title XVI. If the court does not order restitution, or only orders partial restitution, the court must state the reason on the record.

EFFECTIVE DATE

Effective with respect to violations occurring on or after the date of enactment.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM
IMPROVEMENTS

A. CAP ON ATTORNEY ASSESSMENTS

(Sec. 301 of the Bill)

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires the SSA to pay attorney fees for Title II claims directly to the attorney out of the claimant's past-due benefits. The SSA charges an assessment, at a rate not to exceed 6.3 percent of approved attorney fees, for the costs of determining, processing, withholding, and distributing attorney fees.

REASON FOR CHANGE

Testimony was given at a House oversight hearing in May 2001 on the SSA's processing of attorney representatives' fees that the amount of the fee assessment is unfair to these attorneys, who provide an important service to claimants. The attorneys who receive fee payments from the agency have their gross revenue reduced by 6.3 percent. As a result of this revenue loss and the time it takes for the SSA to issue the fee payments to attorneys, a number of attorneys have decided to take fewer or none of these cases. The cap on the amount of the assessment would help ensure that enough attorneys remain available to represent claimants before the Social Security Administration.

The Committee on Ways and Means continues to be concerned about the agency's processing time for attorney representative fee payments and expects the SSA to further automate the payment process as soon as possible.

EXPLANATION OF PROVISION

The new provision imposes a cap of \$75 on the 6.3 percent assessment on approved attorney representative fees for Title II claims. The cap is indexed annually for inflation.

EFFECTIVE DATE

After 180 days after the date of enactment.

B. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI
CLAIMS

(Sec. 302 of the Bill)

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires attorney fees for Title II claims to be paid by the SSA directly to the attorney out of the claimant's past-due benefits (subject to an assessment to cover the SSA's costs). However, attorney fees for Title XVI claims are not paid directly by the SSA out of past-due benefits. Instead, the attorney must collect the fee from the beneficiary.

REASON FOR CHANGE

Withholding the attorney fee payments from the SSI benefit claim would improve SSI applicants' access to representation, as more attorneys would be willing to represent claimants if they are guaranteed payment.

Payment of States first and attorneys second would ensure that States providing interim assistance to individuals would not receive less reimbursement, while also providing a method of ensuring that attorneys receive payment and continue to provide representation.

EXPLANATION OF PROVISION

The provision would extend direct fee payment to attorneys out of past-due benefits for Title XVI claims. It would also authorize the SSA to charge a processing assessment of up to 6.3 percent of the approved attorney fees, subject to a cap of \$75 that is indexed for inflation. The provision would sunset with respect to agreements for representation entered into after 5 years after the implementation date.

In addition, in cases where the States would be reimbursed for interim assistance they had provided to a beneficiary awaiting a decision on a claim for SSI benefits, the State would be paid first, and the attorney would be paid second out of the past-due benefit amount.

The provision also requires the General Accounting Office to conduct a study of claimant representation in the Social Security and Supplemental Security Income programs. The study will include an evaluation of the potential results of extending the fee withholding process to non-attorney representatives.

EFFECTIVE DATE

Applies with respect to fees for representation that are first required to be certified or paid on or after the first day of the first month that begins after 270 days after the date of enactment. The GAO report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of enactment.

TITLE IV: MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A: Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

A. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS

(Sec. 401 of the Bill)

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. These projects can test: (1) alternative methods of treating work activity of individuals entitled to disability benefits; (2) the alteration of other limitations and conditions that apply to such individuals (such as an increase in the length of the trial work period); and, (3) implementation of sliding

scale benefit offsets. To conduct the projects, the Commissioner may waive compliance with the benefit requirements of Title II and Section 1148, and the HHS Secretary may waive the benefit requirements of Title XVIII. The Commissioner's authority to conduct demonstration projects terminates on December 17, 2004, five years after its enactment in the "Ticket to Work and Work Incentives Improvement Act of 1999" (P.L. 106-170, "Ticket to Work Act").

REASON FOR CHANGE

The current five-year limitation on waiver authority restricts the options that may be tested to improve work incentives and return to work initiatives, as several potential options the Commissioner may test would extend past the current five-year limit. Developing a well-designed demonstration project can require several years, and the current five-year authority might not allow sufficient time to both design the project and to conduct it long enough to obtain reliable data.

EXPLANATION OF PROVISION

The new provision clarifies that the Commissioner is authorized to conduct demonstration projects that extend beyond December 17, 2004, if such projects are initiated on or before that date (i.e., initiated within the five-year window after enactment of the Ticket to Work Act).

EFFECTIVE DATE

Upon enactment.

B. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS

(Sec. 402 of the Bill)

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. In addition, Section 302 of the Ticket to Work Act directs the Commissioner to conduct demonstration projects for the purpose of evaluating a program for Title II disability beneficiaries under which benefits are reduced by \$1 for each \$2 of the beneficiary's earnings above a level determined by the Commissioner. To permit a thorough evaluation of alternative methods, Section 302 of the Ticket to Work Act allows the Commissioner to waive compliance with the benefit provisions of Title II and allows the Secretary of Health and Human Services to waive compliance with the benefit requirements of Title XVIII.

REASON FOR CHANGE

This additional waiver authority is needed to allow the Commissioner to effectively test the \$1-for-\$2 benefit offset in combination with return to work services under the Ticket to Work program. Under the \$1-for-\$2 benefit offset, earnings of many beneficiaries may not be sufficient to completely eliminate benefits. However,

under Section 1148 of the Social Security Act, benefits must be completely eliminated before employment networks participating in the Ticket to Work program are eligible to receive outcome payments. Therefore, employment networks are likely to be reluctant to accept tickets from beneficiaries participating in the \$1 for \$2 benefit offset demonstration, making it impossible for the SSA to effectively test the combination of the benefit offset and these return to work services. Additionally, Section 1148 waiver authority was provided for the broad Title II disability demonstration authority under Section 234 of the Social Security Act, but not for this mandated project.

EXPLANATION OF PROVISION

The new provision allows the Commissioner to also waive requirements in Section 1148 of the Social Security Act, which governs the Ticket to Work and Self-Sufficiency Program (Ticket to Work program), as they relate to Title II.

EFFECTIVE DATE

Upon enactment.

C. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS

(Sec. 403 of the Bill)

PRESENT LAW

The Ticket to Work Act provides that the benefits and administrative expenses of conducting the \$1-for-\$2 demonstration projects will be paid out of the Old-Age, Survivors, and Disability Insurance (OASDI) and Federal Hospital Insurance and Federal Supplementary Medical Insurance (HI/SMI) Trust Funds, to the extent provided in advance in appropriations acts.

REASON FOR CHANGE

For demonstration projects conducted under the broader Title II demonstration project authority under Section 234 of the Social Security Act, administrative costs are paid out of otherwise available annually appropriated funds, and benefits associated with the demonstration projects are paid from the OASDI or HI/SMI Trust Funds. This provision would make funding sources for the \$1-for-\$2 demonstration project under the Ticket to Work Act consistent with funding sources for other Title II demonstration projects.

EXPLANATION OF PROVISION

The new provision establishes that administrative expenses for the \$1-for-\$2 demonstration project will be paid out of otherwise available annually-appropriated funds, and that benefits associated with the demonstration project will be paid from the OASDI or HI/SMI Trust Funds.

EFFECTIVE DATE

Upon enactment.

D. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE
SERVICES TO ADDITIONAL INDIVIDUALS

(Sec. 404 of the Bill)

PRESENT LAW

Section 1149 of the Social Security Act (the act), as added by the Ticket to Work Act, directs the SSA to establish a community-based work incentives planning and assistance programs to provide benefits planning and assistance to disabled beneficiaries. To establish this program, the SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. In fulfillment of this requirement, the SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) Program. BPAO projects now exist in every State.

Section 1150 of the act authorizes the SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. Under this section, services provided by participating P&A systems may include: (1) information and advice about obtaining vocational rehabilitation (VR) and employment services; and (2) advocacy or other services that a disabled beneficiary may need to secure or regain employment. The SSA has established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

To be eligible for services under either the BPAO or PABSS programs, an individual must be a "disabled beneficiary" as defined under Section 1148(k) of the act. Section 1148(k) defines a disabled beneficiary as an individual entitled to Title II benefits based on disability or an individual who is eligible for Federal SSI cash benefits under Title XVI based on disability or blindness.

REASON FOR CHANGE

The Committee on Ways and Means recognizes that Social Security and SSI beneficiaries with disabilities face a variety of barriers and disincentives to becoming employed and staying in their jobs. The intent of this provision, as with the Ticket to Work Act, is to encourage disabled individuals to work.

The definition of "disabled beneficiary" under section 1148(k) of the act does not include several groups of beneficiaries, including individuals who are no longer eligible for SSI benefits because of an earnings increase but remain eligible for Medicaid under section 1619(b); individuals receiving only a State supplementation payment; and individuals who are in an extended period of Medicare eligibility. The Committee on Ways and Means believes that BPAO and PABSS services should be available to all of these disabled beneficiaries regardless of Title II or SSI payment status. Beneficiaries may have progressed beyond eligibility for Federal cash benefits, but may still need information about the effects of work on their benefits, or may need advocacy or other services to help them maintain or regain employment. Extending eligibility for the BPAO and PABSS programs to beneficiaries who are receiving a State supplementation payment or are still eligible for Medicare or Medicaid, but who are no longer eligible for Federal cash benefits, will help to prevent these beneficiaries from returning to the Fed-

eral cash benefit rolls and help them to reach their optimum level of employment.

The Committee on Ways and Means also intends that PABSS services be available to provide assistance to beneficiaries who have successfully obtained employment but who continue to encounter job-related difficulties. Therefore, the new provision extends the current PABSS assistance (which is available for securing and regaining employment) to maintaining employment—thus providing a continuity of services for disabled individuals throughout the process of initially securing employment, the course of their being employed and, if needed, their efforts to regain employment. This provision would ensure that disabled individuals would not face a situation in which they would have to wait until they lost their employment in order to once again be eligible to receive PABSS services. Payments for services to maintain employment would be subject to Section 1150(c) of the Social Security Act. The Committee on Ways and Means will continue to monitor the implementation of PABSS programs to ensure that assistance is directed to all areas in which beneficiaries face obstacles in securing, maintaining, or regaining work.

EXPLANATION OF PROVISION

The new provision expands eligibility for the BPAO and PABSS programs under Sections 1149 and 1150 of the act to include not just individuals who are “disabled beneficiaries” under Section 1148(k) of the act, but also individuals who (1) are no longer eligible for SSI benefits because of an increase in earnings, but remain eligible for Medicaid under Section 1619(b); (2) receive only a State supplementation payment (a payment that some States provide as a supplement to the Federal SSI benefit); or (3) are in an extended period of Medicare eligibility under Title XVIII after a period of Title II disability has ended. The new provision also expands the types of services a P&A system may provide under Section 1150 of the act. Currently P&A systems may provide “advocacy or other services that a disabled beneficiary may need to secure or regain employment,” while the new provision allows them to provide “advocacy or other services that a disabled beneficiary may need to secure, maintain, or regain employment.”

EFFECTIVE DATE

The amendment to Section 1149, which affects the BPAO Program, is effective with respect to grants, cooperative agreements or contracts entered into on or after the date of enactment. The amendments to Section 1150, which affect the PABSS Program, are effective for payments provided after the date of the enactment.

E. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

(Sec. 405 of the Bill)

PRESENT LAW

Under Section 51 of the Internal Revenue Code (IRC), employers may claim a Work Opportunity Tax Credit (WOTC) if they hire,

among other individuals, individuals with disabilities who have been referred by a State vocational rehabilitation (VR) agency. For an individual to qualify as a vocational rehabilitation referral under Section 51(d)(6)(B) of the IRC, the individual must be receiving or have completed vocational rehabilitation services pursuant to: (i) "an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973"; or (ii) "a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code." (IRC, Section 51(d)(6)(B)).

The WOTC is equal to 40 percent of the first \$6,000 of wages paid to newly hired employees during their first year of employment when the employee is retained for at least 400 work hours. As such, the maximum credit per employee is \$2,400, but the credit may be less depending on the employer's tax bracket. A lesser credit rate of 25 percent is provided to employers when the employee remains on the job for 120–399 hours. The amount of the credit reduces the company's deduction for the employee's wages.

The Ticket to Work Act established the Ticket to Work and Self-Sufficiency Program (Ticket to Work program) under Section 1148 of the Social Security Act. Under this program, the SSA provides a "ticket" to eligible Social Security Disability Insurance beneficiaries and Supplemental Security Income beneficiaries with disabilities that allows them to obtain employment and other support services from an approved "employment network" of their choice. Employment networks may include State, local, or private entities that can provide directly, or arrange for other organizations or entities to provide, employment services, VR services, or other support services. State VR agencies have the option of participating in the Ticket to Work program as employment networks. Employment networks must work with each beneficiary they serve to develop an individual work plan (IWP) for that beneficiary that outlines his or her vocational goals and the services needed to achieve those goals. For VR agencies that participate in the Ticket to Work program, the individualized written plan for employment (as specified under (i) in paragraph one above) serves in lieu of the IWP.

Under current law, an employer hiring a disabled individual referred by an employment network does not qualify for the WOTC unless the employment network is a State VR agency.

REASON FOR CHANGE

The Ticket to Work program was designed to increase choice available to beneficiaries when they select providers of employment services. Employers hiring individuals with disabilities should be able to qualify for the WOTC regardless of whether the employment referral is made by a public or private service provider. This amendment updates eligibility criteria for the WOTC to conform to the expansion of employment services and the increase in number and range of VR providers as a result of the enactment of the Ticket to Work Act.

EXPLANATION OF PROVISION

The new provision allows employers who hire disabled workers through referrals by employment networks under Section 1148 of the Social Security Act to qualify for the WOTC. Specifically, it pro-

vides that, for purposes of Section 51(d)(6)(B)(i) of the IRC of 1986, an IWP under Section 1148 of the Social Security Act shall be treated as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.

EFFECTIVE DATE

Effective as if it were included in Section 505 of the Ticket to Work Act.

Subtitle B. Miscellaneous Amendments

F. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES
FULLY FAVORABLE TO THE CLAIMANT

(Sec. 411 of the Bill)

PRESENT LAW

The Social Security Act requires the SSA to file a hearing transcript with the District Court for any SSA hearing that follows a court remand of a SSA decision.

REASON FOR CHANGE

A claimant whose benefits have been denied is provided a transcript of a hearing to be used when the claimant appeals his case in Federal District court. If the Administrative Law Judge issues a fully favorable decision, then transcribing the hearing is unnecessary since the claimant would not appeal this decision.

EXPLANATION OF PROVISION

The new provision clarifies that the SSA is not required to file a transcript with the court when the SSA, on remand, issues a decision fully favorable to the claimant.

EFFECTIVE DATE

Effective with respect to final determinations issued (upon remand) on or after the date of enactment.

G. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED
STATES

(Sec. 412 of the Bill)

PRESENT LAW

In most cases, the Social Security Act prohibits the payment of Social Security benefits to non-citizens who are deported from the United States. However, the act does not prohibit the payment of Social Security benefits to non-citizens who are deported for smuggling other non-citizens into the United States.

REASON FOR CHANGE

Individuals who are removed from the United States for smuggling aliens have committed an act that should prohibit them from receiving Social Security benefits.

EXPLANATION OF PROVISION

The new provision requires the SSA to suspend benefits of beneficiaries who are removed from the United States for smuggling aliens.

EFFECTIVE DATE

Applies with respect to removals occurring after the date of enactment.

H. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS

(Sec. 413 of the Bill)

PRESENT LAW

The Federal Reports Elimination and Sunset Act of 1995 "sunsetting" most annual or periodic reports from agencies to Congress that were listed in a 1993 House inventory of congressional reports.

REASON FOR CHANGE

The reports to be reinstated provide Congress with important information needed to evaluate and oversee the Social Security and Medicare programs.

EXPLANATION OF PROVISION

The new provision reinstates the requirements for several periodic reports to Congress that were subject to the 1995 "sunset" act, including annual reports on the financial solvency of the Social Security and Medicare programs (the Board of Trustees' reports on the OASDI, HI, and SMI Trust Funds) and annual reports on certain aspects of the administration of the Title II disability program (the SSA Commissioner's reports on pre-effectuation reviews of disability determinations and continuing disability reviews).

EFFECTIVE DATE

Upon enactment.

I. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS

(Sec. 414 of the Bill)

PRESENT LAW

Under the definitions of "widow" and "widower" in Section 216 of the Social Security Act, a widow or widower must have been married to the deceased spouse for at least nine months before his or her death in order to be eligible for survivor benefits.

REASON FOR CHANGE

This provision allows the Commissioner to issue benefits in certain unusual cases in which the duration of marriage requirement could not be met due to a legal impediment over which the individual had no control and the individual would have met the legal requirements were it not for the legal impediment.

EXPLANATION OF PROVISION

The new provision creates an exception to the nine-month requirement for cases in which the Commissioner finds that the claimant and the deceased spouse would have been married for longer than nine months but for the fact that the deceased spouse was legally prohibited from divorcing a prior spouse who was institutionalized due to mental incompetence or similar incapacity.

EFFECTIVE DATE

Effective for benefit applications filed after the date of enactment.

J. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER

(Sec. 415 of the Bill)

PRESENT LAW

In cases where there is an agreement with a foreign country (i.e., a totalization agreement), a worker's earnings are exempt from United States Social Security payroll taxes when those earnings are subject to the foreign country's retirement system.

REASON FOR CHANGE

In U.S. totalization agreements, a person's work is generally subject to the Social Security laws of the country in which the work is performed. In most cases, the worker (whether subject to the laws of the United States or the other country) is compulsorily covered and required to pay contributions in accordance with the laws of that country. In some instances, however, work that would be compulsorily covered in the U.S. is excluded from compulsory coverage in the other country (such as Germany). In such cases, the IRS has questioned the exemption from U.S. Social Security tax for workers who elect not to make contributions to the foreign country's retirement system. This provision would remove any question regarding the exemption and would be consistent with the general philosophy behind the coverage rules of totalization agreements.

EXPLANATION OF PROVISION

The new provision clarifies the legal authority to exempt a worker's earnings from United States Social Security tax in cases where the earnings were subject to a foreign country's retirement system in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions on those earnings. The provision establishes that such earnings are exempt from United States Social Security tax whether or not the worker elected to make contributions to the foreign country's retirement system.

EFFECTIVE DATE

Upon enactment.

K. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC
EMPLOYEES IN KENTUCKY

(Sec. 416 of the Bill)

PRESENT LAW

Under Section 218 of the Social Security Act, a State may choose whether or not its State and local government employees who are covered by a public pension plan may also participate in the Social Security Old-Age, Survivors, and Disability Insurance program. (In this context, the term "public pension plan" refers to a pension, annuity, retirement, or similar fund or system established by a State or a political subdivision of a State such as a town. Under current law, State or local government employees not covered by a public pension plan are, with a few exceptions, required to pay Social Security payroll taxes.)

Social Security coverage for employees covered under a State or local government public pension plan is established through an agreement between the State and the Federal government. All States have the option of electing Social Security coverage for employees by a majority vote in a referendum. If the majority vote is in favor of Social Security coverage, then the entire group, including those voting against such coverage, will be covered by Social Security. If the majority vote is against Social Security coverage, then the entire group, including those voting in favor of such coverage and employees hired after the referendum, will not be covered by Social Security.

In certain States, however, there is an alternative method for electing Social Security coverage. Under this method, rather than the majority of votes determining Social Security coverage for the whole group, employees voting in the referendum may individually determine whether they want Social Security coverage, provided that all newly hired employees of the system are required to participate in Social Security. After the referendum, the retirement system is divided into two groups, one composed of members who elected Social Security coverage plus those hired after the referendum, and the other composed of those who did not elect Social Security coverage. Under Section 218(d)(6)(c) of the Social Security Act, 21 States currently have authority to operate such a divided retirement system.

REASON FOR CHANGE

The governments of the City of Louisville and Jefferson County merged in January 2003, and formed a new political subdivision. Under the provision, once the new political subdivision holds a referendum on Social Security coverage among its employees, each employee would choose whether or not to participate in the Social Security system in addition to their public pension plan. All employees newly hired to the system after the divided system is in place would be covered automatically under Social Security.

Currently, some employees of the new government are covered under Social Security, while others are not. In order to provide fair and equitable coverage to all employees, a divided retirement system, such as that currently authorized in 21 other States, was seen as the best solution. It would allow those who want to keep Social

Security coverage or obtain Social Security coverage to do so, without requiring other current employees to participate in Social Security as well.

Without this provision, upon holding a referendum on Social Security coverage, a majority of votes would determine whether or not the group would participate in Social Security. Since the number of non-covered employees exceeds the number of Social Security-covered employees in the new government, those employees currently covered by Social Security could lose that coverage. The Kentucky General Assembly has adopted a bill that will allow the new divided retirement system to go forward following enactment of this provision.

EXPLANATION OF PROVISION

The new provision permits the State of Kentucky to join the 21 other States in being able to offer a divided retirement system. This system would permit current State and local government workers in a public pension plan to elect Social Security coverage on an individual basis. Those who do not wish to be covered by Social Security would continue to participate exclusively in the public pension plan.

EFFECTIVE DATE

Effective retroactively to January 1, 2003.

L. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD
(Sec. 417 of the Bill)

PRESENT LAW

The Social Security Advisory Board is an independent, bipartisan Board established by the Congress under Section 703 of the Social Security Act. The 7-member Board is appointed by the President and the Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs. Section 703(f) of the Social Security Act provides that members of the Board serve without compensation, except that, while engaged in Board business away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code for persons in the Government who are employed intermittently.

REASON FOR CHANGE

Other government advisory boards—such as the Employee Retirement Income Security Act Advisory Council, the Pension Benefit Guaranty Corporation Advisory Committee and the Thrift Savings Plan Board—provide compensation for their members. This provision allows for similar treatment of Social Security Advisory Board members with respect to compensation.

EXPLANATION OF PROVISION

The new provision establishes that compensation for Social Security Advisory Board members will be provided, at the daily rate of

basic pay for level IV of the Executive Schedule, for each day (including travel time) during which the member is engaged in performing a function of the Board.

EFFECTIVE DATE

January 1, 2003.

M. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR
APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION

(Sec. 418 of the Bill)

PRESENT LAW

The Government Pension Offset (GPO) was enacted in order to equalize treatment of workers in jobs not covered by Social Security and workers in jobs covered by Social Security, with respect to spouse and survivor benefits. Where what is known as the "dual-entitlement" rule reduces a spouse or survivor benefit dollar-for-dollar by the worker's own Social Security retirement or disability benefit, the GPO reduces the Social Security spouse or survivor benefit by two-thirds of the government pension.

However, under what's known as the "last day rule," State and local government workers are exempt from the GPO if, on the last day of employment, their job was covered by Social Security. In contrast, Federal workers who switched from the Civil Service Retirement System (CSRS), a system that is not covered by Social Security, to the Federal Employee Retirement System (FERS), a system that is covered by Social Security, must work for 5 years under FERS in order to be exempt from the GPO.

REASON FOR CHANGE

In August 2002, the GAO published a report titled "Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered" (GAO-02-950). At the request of Committee on Ways and Means, Subcommittee on Social Security Chairman E. Clay Shaw, Jr., the GAO investigated use of the "last day" exemption to avoid being subject to the GPO. The investigation found that over 4,800 individuals in Texas and Georgia used or planned to use the last day exemption, with over 3,500 in Texas using it in 2002.

In testimony provided to the Subcommittee on Social Security February 27, 2003, the GAO stated that the exemption "allows a select group of individuals with a relatively small investment of work time and only minimal Social Security contributions to gain access to potentially many years of full Social Security spousal benefits." The GAO also clarified in testimony that a spouse who worked in the private sector, paid payroll taxes for an entire career, and earned a Social Security retirement or disability benefit as a worker would not receive a full spousal benefit. The GAO stated that current usage of last day exemption could cost the Social Security trust funds \$450 million, and that considering the potential for abuse of the exemption and the likelihood of increased use, timely action is needed. This provision to conform their treatment to that of Federal workers was among the recommendations provided by the GAO to address potential abuse of the exemption. A

provision addressing the GPO last-day exemption was also included in President Bush's budget request for 2004.

EXPLANATION OF PROVISION

The new provision requires that State and local government workers be covered by Social Security during their last 5 years of employment in order to be exempt from the GPO.

EFFECTIVE DATE

Effective for applications filed on or after the first day of the first month after the date of enactment. However, the provision would not apply to individuals whose last day of employment for the State or local governmental entity occurred before the end of the 90-day period following the date of enactment. It would also not apply to persons whose last day of employment occurred after the end of the 90-day period following the date of enactment, if during the 90-day period following the date of enactment the person's job was covered by Social Security and remained so until their last day of employment.

Subtitle C. Technical Amendments

N. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY
HEAD

(Sec. 421 of the Bill)

PRESENT LAW

Section 1143 of the Social Security Act directs "the Secretary of Health and Human Services" to send periodic Social Security Statements to individuals.

REASON FOR CHANGE

The "Social Security Independence and Program Improvements Act of 1994" (P.L. 103-296) made the Social Security Administration an independent agency separate from the Department of Health and Human Services. This provision updates Section 1143 to reflect that change.

EXPLANATION OF PROVISION

The new provision makes a technical correction to this section by inserting a reference to the Commissioner of Social Security in place of the reference to the Secretary of Health and Human Services.

EFFECTIVE DATE

Upon enactment.

O. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF
MINISTERS

(Sec. 422 of the Bill)

PRESENT LAW

Section 1456 of the "Small Business Job Protection Act of 1996" (P.L. 104-188) established that certain retirement benefits received by ministers and members of religious orders (such as the rental value of a parsonage or parsonage allowance) are not subject to Social Security payroll taxes under the Internal Revenue Code. However, under Section 211 of the Social Security Act, these retirement benefits are treated as net earnings from self-employment for the purpose of acquiring insured status and calculating Social Security benefit amounts.

REASON FOR CHANGE

P.L. 104-188 provided that certain retirement benefits received by ministers and members of religious orders are not subject to payroll taxes. However, a conforming change was not made to the Social Security Act to exclude these benefits from being counted as wages for the purpose of acquiring insured status and calculating Social Security benefit amounts. This income is therefore not treated in a uniform manner. This provision would conform the Social Security Act to the Internal Revenue Code with respect to such income.

EXPLANATION OF PROVISION

The new provision makes a conforming change to exclude these benefits received by retired clergy from Social Security-covered earnings for the purpose of acquiring insured status and calculating Social Security benefit amounts.

EFFECTIVE DATE

Effective for years beginning before, on, or after December 31, 1994 (same as the effective date of Section 1456 of P.L. 104-188).

P. TECHNICAL CORRECTION RELATING TO DOMESTIC EMPLOYMENT
(Sec. 423 of the Bill)

PRESENT LAW

Current law is ambiguous concerning the Social Security coverage and tax treatment of domestic service performed on a farm. Domestic employment on a farm appears to be subject to two separate coverage thresholds (one for agricultural labor and another for domestic employees).

REASON FOR CHANGE

Prior to 1994, domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural labor. According to the SSA, in 1994, when Congress amended the law with respect to domestic employment, the intent was that domestic employment on a farm would be subject to the coverage threshold for domestic employees instead of the threshold for

agricultural labor. However, the current language is unclear, making it appear as if farm domestics are subject to both thresholds.

EXPLANATION OF PROVISION

The new provision clarifies that domestic service on a farm is treated as domestic employment, rather than agricultural labor, for Social Security coverage and tax purposes.

EFFECTIVE DATE

Upon enactment.

Q. TECHNICAL CORRECTION OF OUTDATED REFERENCES

(Sec. 424 of the Bill)

PRESENT LAW

Section 202(n) and 211(a)(15) of the Social Security Act and Section 3102(a) of the Internal Revenue Code of 1986 each contain outdated references that relate to the Social Security program.

REASON FOR CHANGE

Over the years, provisions in the Social Security Act, the Internal Revenue Code and other related laws have been deleted, redesignated or amended. However, necessary conforming changes have not always been made. Consequently, Social Security law contains some outdated references.

EXPLANATION OF PROVISION

The new provision corrects outdated references in the Social Security Act and the Internal Revenue Code by: (1) in Section 202(n) of the Social Security Act, updating references respecting removal from the United States; (2) in Section 211(a)(15) of the Social Security Act, correcting a citation respecting a tax deduction related to health insurance costs of self-employed individuals; and (3) in Section 3102(a) of the Internal Revenue Code of 1986, eliminating a reference to an obsolete 20 day agricultural work test.

EFFECTIVE DATE

Upon enactment.

R. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME
IN COMMUNITY PROPERTY STATES

(Sec. 425 of the Bill)

PRESENT LAW

The Social Security Act and the Internal Revenue Code provide that, in the absence of a partnership, all self-employment income from a trade or business operated by a married person in a community property State is deemed to be the husband's unless the wife exercises substantially all of the management and control of the trade or business.

REASON FOR CHANGE

Present law was found to be unconstitutional in several court cases in 1980. Since then, income from a trade or business that is not a partnership in a community property State has been treated the same as income from a trade or business that is not a partnership in a non-community property State—it is taxed and credited to the spouse who is found to be carrying on the business.

This change will conform the provisions in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States.

EXPLANATION OF PROVISION

Under the new provision, self-employment income from a trade or business that is not a partnership, and that is operated by a married person in a community property State, is taxed and credited to the spouse who is carrying on the trade or business. If the trade or business is jointly operated, the self-employment income is taxed and credited to each spouse based on his or her distributive share of gross earnings.

EFFECTIVE DATE

Upon enactment.

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. 743.

MOTION TO REPORT THE BILL

The bill, H.R. 743, as amended, was ordered favorably reported by a rollcall vote of 35 yeas to 2 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel	X		
Mr. Crane	X			Mr. Stark	X		
Mr. Shaw	X			Mr. Matsui	X		
Mrs. Johnson	X			Mr. Levin	X		
Mr. Houghton	X			Mr. Cardin	X		
Mr. Herger	X			Mr. McDermott	X		
Mr. McCrery	X			Mr. Kleczka	X		
Mr. Camp	X			Mr. Lewis (GA)	X		
Mr. Ramstad	X			Mr. Neal			
Mr. Nussle				Mr. McNulty			
Mr. Johnson	X			Mr. Jefferson	X		
Ms. Dunn	X			Mr. Tanner	X		
Mr. Collins	X			Mr. Becerra	X		
Mr. Portman	X			Mr. Doggett		X	
Mr. English	X			Mr. Pomeroy	X		
Mr. Hayworth	X			Mr. Sandlin		X	
Mr. Weller	X			Ms. Tubbs Jones	X		
Mr. Hulshof	X						
Mr. McInnis	X						
Mr. Lewis (KY)	X						
Mr. Foley							
Mr. Brady	X						
Mr. Ryan	X						

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Cantor	X	.....	.....		

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendments to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Jefferson, which would modify the Government Pension Offset from two-thirds of the government pension to two-thirds of the amount of the combined government and Social Security benefit exceeding \$2,000 per month (not to exceed the reduction under current law), was defeated by a rollcall vote of 14 yeas to 21 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas		X	.....	Mr. Rangel	X	.....	.....
Mr. Crane		X	.....	Mr. Stark	X	.....	.....
Mr. Shaw		X	.....	Mr. Matsui	X	.....	.....
Mrs. Johnson		X	.....	Mr. Levin	X	.....	.....
Mr. Houghton		X	.....	Mr. Cardin	X	.....	.....
Mr. Herger		X	.....	Mr. McDermott	X	.....	.....
Mr. McCreery		X	.....	Mr. Kleczka	X	.....	.....
Mr. Camp		X	.....	Mr. Lewis (GA)	X	.....	.....
Mr. Ramstad		X	.....	Mr. Neal .....	.....	.....	.....
Mr. Nussle	Mr. McNulty .....	.....	.....	.....
Mr. Johnson		X	.....	Mr. Jefferson	X	.....	.....
Ms. Dunn	Mr. Tanner	X	.....	.....
Mr. Collins		X	.....	Mr. Becerra	X	.....	.....
Mr. Portman		X	.....	Mr. Doggett	X	.....	.....
Mr. English		X	.....	Mr. Pomeroy	X	.....	.....
Mr. Hayworth		X	.....	Mr. Sandlin .....	.....	.....	.....
Mr. Weller		X	.....	Ms. Tubbs Jones	X	.....	.....
Mr. Hulshof		X	.....			
Mr. McClinnis		X	.....			
Mr. Lewis (KY)		X	.....			
Mr. Foley				
Mr. Brady		X	.....			
Mr. Ryan		X	.....			
Mr. Cantor		X	.....			

An amendment by Mr. Stark, which would reduce the Government Pension Offset of Social Security spousal and survivor's benefits from two-thirds to one-third of the government pension, was defeated by a roll call vote of 15 yeas to 22 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas		X	.....	Mr. Rangel	X	.....	.....
Mr. Crane		X	.....	Mr. Stark	X	.....	.....
Mr. Shaw		X	.....	Mr. Matsui	X	.....	.....
Mrs. Johnson		X	.....	Mr. Levin	X	.....	.....
Mr. Houghton		X	.....	Mr. Cardin	X	.....	.....
Mr. Herger		X	.....	Mr. McDermott	X	.....	.....
Mr. McCreery		X	.....	Mr. Kleczka	X	.....	.....
Mr. Camp		X	.....	Mr. Lewis (GA)	X	.....	.....
Mr. Ramstad		X	.....	Mr. Neal .....	.....	.....	.....
Mr. Nussle	Mr. McNulty .....	.....	.....	.....
Mr. Johnson		X	.....	Mr. Jefferson	X	.....	.....
Ms. Dunn		X	.....	Mr. Tanner	X	.....	.....
Mr. Collins		X	.....	Mr. Becerra	X	.....	.....
Mr. Portman		X	.....	Mr. Doggett	X	.....	.....
Mr. English		X	.....	Mr. Pomeroy	X	.....	.....
Mr. Hayworth		X	.....	Mr. Sandlin	X	.....	.....

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Weller		X	.....	Ms. Tubbs Jones	X	.....	.....
Mr. Hulshof		X	.....			
Mr. McClinnis		X	.....			
Mr. Lewis (KY)		X	.....			
Mr. Foley				
Mr. Brady		X	.....			
Mr. Ryan		X	.....			
Mr. Cantor		X	.....			

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. 743 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 BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states the bill will reduce direct spending and increase revenues, resulting in \$655 million in savings to the unified budget.

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, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 20, 2003.

Hon. WILLIAM "BILL" M. THOMAS,
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. 743, the Social Security Protection Act of 2003.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 743—Social Security Protection Act of 2003

Summary: H.R. 743 would strengthen oversight of representative payees (people who handle benefit checks for others, such as children or mentally impaired adults), bar Social Security benefits to

fugitives, revamp the Social Security Administration's (SSA's) procedures for paying attorneys who represent successful claimants, and tighten the rules for some state and local retirees who switch jobs briefly in order to boost their Social Security benefits. In all, the bill contains three dozen provisions, although many would have little or no budgetary effect.

On balance, enacting H.R. 743 would lead to small net costs in 2004 but net savings thereafter—by amounts that grow from \$16 million in 2005 to \$147 million in 2013. In total, CBO estimates that enacting the bill would trim direct spending and boost revenue by a combined \$655 million over the 2004–2013 period. About two-thirds of those effects are in Social Security, which is off-budget.

H.R. 743 would also affect discretionary spending. CBO estimates that implementing the bill would cost SSA \$15 million to \$20 million a year through 2010, and smaller amounts after that, for extra enforcement and processing activities.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the requirements of that act any provision that relates to the Old-Age, Survivors, and Disability Insurance program (OASDI) under title II of the Social Security Act. Many provisions of H.R. 743 would fall within that exclusion. The other provisions of the bill contain no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. They do contain private-sector mandates as defined in UMRA. CBO estimates that the costs to the private sector of those mandates would not exceed the threshold established by UMRA (\$117 million in 2003, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 743 shown in the following table. The costs of this legislation fall within budget functions 570 (Medicare), 600 (income security), and 650 (Social Security).

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING (OUTLAYS)										
Title I. Protection of beneficiaries:										
Authority to re-issue benefits misused by organizational representative payees:										
OASDI benefits	2	*	*	*	*	*	*	*	*	*
SSI benefits	1	*	*	*	*	*	*	*	*	*
Title II. Program protections:										
Denial of benefits to fugitives:										
OASDI benefits	-10	-30	-44	-55	-59	-61	-63	-66	-68	-70
Medicare ..	-1	-4	-11	-15	-19	-22	-23	-25	-25	-27

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Off-budget (OASDI)	1	1	2	2	3	3	3	4	4	5
Total	-1	1	2	2	3	3	3	4	4	5
NET CHANGES IN DIRECT SPENDING AND REVENUES (EFFECT ON DEFICITS)										
On-budget	2	-8	-15	-19	-23	-26	-28	-25	-25	-27
Off-budget (OASDI) ...	4	-8	-21	-32	-38	-43	-51	-63	-88	-120
Total	5	-16	-37	-52	-61	-69	-79	-88	-113	-147
CHANGES IN SPENDING SUBJECT TO APPROPRIATION (OUTLAYS)										
OASDI administrative expenses	4	3	2	2	2	2	2	3	3	4
SSI administrative expenses	14	13	13	14	15	16	16	2	2	2
Total	18	17	15	16	17	18	19	5	5	6

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

OASDI = Old-Age, Survivors, and Disability Insurance (title II); SSI = Supplemental Security Income (title XVI).

*= Less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 743 will be enacted in September 2003.

Direct spending and revenues

Title I. Nearly seven million people—three million adults and four million children—who get Social Security, Supplemental Security Income (SSI), or both have their checks sent to a representative payee who helps manage the beneficiary's finances. The payee must also report certain events, such as changes in the beneficiary's income or school attendance, to SSA. In about 85 percent of cases, a family member serves as a representative payee. But an attorney or guardian, a social service agency, an institution, or other nonrelative may act as a payee, especially for a disabled adult. About 45,000 organizations serve as representative payees for about 750,000 clients. SSA monitors representative payees by requiring annual reports and by conducting on-site reviews every three years of certain payees who serve a large number of beneficiaries.

H.R. 743 would direct SSA to certify annually that social service agencies meet licensing and bonding requirements and to conduct periodic on-site inspections of more representative payees. It would enhance SSA's ability to recover misused funds and to impose civil monetary penalties.

Most of the provisions would have negligible effects on benefit payments or recoveries. One section, however, would require SSA to pay beneficiaries any amounts that had been misused by an organizational representative payee. (Currently, such claimants must show negligence by SSA.) "Misuse" means converting funds to the payee's own use or any purpose other than the use and benefit of the client. The provision would be retroactive to January 1, 1995.

According to SSA, representative payees misuse about \$3 million in benefits each year. Although SSA's Inspector General (IG) has found weaknesses in internal controls of organizational payees, few of the resulting errors would constitute misuse. Because organizations handle about 12 percent of the dollars flowing through rep-

representative payees, CBO estimates that reimbursing nine years' worth of misused benefits would cost \$3 million in 2004. Extra costs in 2005 through 2013 would be negligible.

Title II. H.R. 743 would forbid fugitive felons and people fleeing prosecution from collecting Social Security benefits. CBO estimates that this policy would reduce Social Security spending by \$10 million in 2004 and \$525 million over the 2004–2013 period. CBO also estimates that the policy would save \$172 million in Medicare over the 10 years.

CBO used data from a report by SSA's Inspector General to estimate those savings. The IG extrapolated from a sample of about 400 cases in 10 states to estimate that fugitives received between \$40 million and \$180 million in Social Security benefits in 1999. The midpoint of that range (\$110 million) reflected an estimated 15,000 fugitives with an average benefit of almost \$600 per month. Assuming that their number and average benefit keep pace with the overall program, CBO extrapolated that total to \$130 million in 2004 and \$175 million in 2013.

CBO judges, however, that several obstacles would keep savings from reaching those figures. First, large-scale enforcement poses challenges—a fact highlighted by the IG's work with a small sample. By tapping the National Crime Information Center (NCIC) and obtaining data directly from some states that do not report fully to the NCIC, SSA has access to more than half of fugitive warrants; some, though, lack key information (such as full name and Social Security number) for an accurate match. Illustrating that hurdle, an IG study of the SSI program—three years after fugitives became ineligible—found that about 20 percent of ineligible recipients were suspended from the rolls promptly, another 30 percent were suspended eventually, and 50 percent were apparently missed. That study covered years before 2000, when SSA began matching data with the NCIC; nevertheless, the findings lead CBO to assume that matching will ultimately be about 60 percent effective.

Second, some people spotted by computer matching will probably clear their records when their benefits stop, resulting in little or no long-term savings. CBO found that many warrants are dated—about 15 percent of state warrants, for example, are more than 10 years old—and most are for nonviolent offenses such as drug possession and probation or parole violation. In such cases, “fugitives” with no subsequent convictions may face nothing worse than a suspended sentence or probation. Faced with a lifetime cutoff from Social Security, CBO assumes that some would run that risk. To account for such cases, CBO subtracted another one-third from potential savings, bringing the result to 40 percent of the IG's figure. CBO assumes those savings are attainable about two years after enactment; initial savings are more modest, as SSA signs data-sharing agreements with more states and writes regulations.

CBO assumes that 80 percent of fugitives who would be affected by this provision are disabled beneficiaries who qualify for Medicare. If they lost their health benefits too, extra savings in 2013 (when their average Medicare benefit—about \$9,600—almost matches their assumed Social Security benefit, \$9,900) could reach \$54 million. However, they would not lose Medicare eligibility. Technically their Social Security benefit would be suspended, not terminated. A suspension does not erase Medicare eligibility. Some

Medicare savings would probably occur simply because beneficiaries fail to realize they remain eligible, fear using their Medicare card, or stop paying the premium (which is usually withheld from Social Security checks) for Part B coverage. CBO assumes that the resulting drop in use of Medicare benefits would save about half as much as an outright ban, or about \$27 million in 2013.

Title III. Many Social Security claimants, especially disability applicants who win benefits on appeal, are represented by attorneys. A standard fee agreement between attorney and client pledges that the attorney will receive 25 percent of any past-due benefits up to a cap of \$5,300. (By the time someone wins on appeal, past-due benefits typically amount to about 18 months' worth.) That cap stood at \$4,000 for more than a decade until SSA raised it in 2002. When SSA awards OASDI benefits in such cases, it pays the attorney fee directly from the past-due amounts. In contrast, when SSA awards SSI benefits only, or denies all benefits, the attorney must seek his or her fee from the client. Processing attorney fees is a labor-intensive chore, and in 1999 the Congress permitted SSA to withhold up to 6.3 percent of the amounts paid to offset some of those costs.

SSA pays attorney fees in about 200,000 OASDI cases and concurrent (OASDI and SSI) cases a year. The average fee, still dampened by the \$4,000 lid, is now about \$2,700, and the average processing charge about \$170. By 2013, CBO expects that annual volume will be about 240,000, the average fee about \$3,600, and hence the average charge about \$225. H.R. 743 proposes to cap the charge at \$75 with future adjustments for inflation. That would erase more than half of expected receipts, a loss of \$34 million in 2013. CBO estimates that over the 2004–2013 period the proposed cap would cost \$275 million.

H.R. 743 also proposes to extend the attorney-fee system temporarily to SSI, starting nine months after enactment and ending with agreements for representation that are signed five years later. Because attorneys are most active in appealed cases, which may take a year to decide, those five years actually translate into more than six years of budgetary effects. SSA now approves, though it does not disburse, attorney fees in about 55,000 SSI-only cases a year. The average fee is about \$1,900. (Because SSI benefits are lower than Disability Insurance's (DI's), the average fee—which cannot exceed 25 percent of past-due benefits—is also lower.) By 2010, CBO estimates those figures would be about 60,000 and \$2,200 respectively. Extending the payment system, including the 6.3 percent processing charge, to SSI would bring in about \$9 million. Capping the charge at \$87 (the initial \$75, adjusted for inflation), as H.R. 743 also proposes, would generate \$5 million. Total collections over the 10-year period would be \$26 million.

Title IV. This title, labeled "Miscellaneous and Technical Amendments," contains two provisions with significant budgetary effects. Both would affect state and local government employees.

60-month employment requirement for exemption from Government Pension Offset. State and local governments have been permitted to join Social Security since the 1950s; since 1983, jurisdictions that had already joined have been barred from withdrawing. The Census Bureau counts 14 million active members and 6 mil-

lion beneficiaries in 2,200 state and local government retirement plans. About one-quarter are not covered by Social Security.

Under current law, a retiree with a pension from noncovered state or local employment cannot collect a full Social Security benefit as a spouse or widow(er) of a covered worker. Instead, the government pension offset (GPO) trims the Social Security benefit by \$2 for every \$3 of the noncovered pension—often erasing the Social Security benefit entirely. The GPO's drafters liken that to the way Social Security treats other spouses. A wife, for example, cannot collect her own retired-worker benefit plus an extra 50 percent of her husband's benefit; instead, she gets the larger amount. In that analogy, two-thirds of the pension from noncovered work is akin to a retired-worker benefit.

H.R. 743 would limit a tactic that some public employees are using to skirt the GPO. The offset applies to state and local retirees whose last day of employment under their pension plan was not covered. The General Accounting Office (GAO) reports that some workers have learned that by switching jobs for a short time—sometimes just one day—they can avoid a lifetime of GPO-related reductions. Specifically, GAO found 4,800 such transfers through June 2002. Almost all were in Texas. H.R. 743 proposes to replace the "last-day" rule with a 60-month requirement—the same rule that applies to federal civil servants.

GPO had to judge how the job-switching detected by GAO might evolve over time. Of the 4,800 transfers that GAO found, 3,500 occurred in 2002 alone, where they amounted to a quarter of retirements in the Teachers' Retirement System of Texas that year. GAO found only a handful of cases outside Texas but voiced concern that the practice would spread.

To gauge that possibility, CBO looked at retirement plans in the six states—California, Colorado, Illinois, Louisiana, Massachusetts, and Ohio—that with Texas account for 75 percent of noncovered employees. CBO concluded that conditions in Texas are uniquely favorable to "last-day" switches. Texas combines a huge noncovered sector, a small covered sector, and a statewide plan that recognizes service in both. In other states, employees who sought a covered job would have to change occupations (for example, from law enforcement to teacher) and forfeit some advantages of their original plan; in others, such as Ohio and Massachusetts, no covered positions exist. California, with its mix of covered and noncovered jurisdictions, bears the closest resemblance to Texas but has fewer noncovered jobs and thus fewer employees with an incentive to switch. If the "last-day" rule remains, states could face pressure to amend their plans to make such transfers easier. But plan amendments are complex and time-consuming.

Under current law, CBO assumes that annual transfers spurred by the "last-day" rule will climb to 7,000 in 2004—twice the number in 2002, enough to accommodate further growth in Texas (where the practice clearly had not peaked) and some spillover to other states. Under H.R. 743, significant savings in Social Security would follow in about seven years. That lag stems from the programs' contrasting rules for eligibility: a typical retiree under the Texas teachers' plan qualifies for a pension at age 55 and (if the GPO does not erase it) for Social Security at age 62. Thus, the first batch of 7,000 annuitants who retire in calendar 2004 would reach

62 in 2011. Spouses and widow(er)s affected by the GPO in December 2001 saw their Social Security reduced by an average of \$312 and \$479, respectively. Adjusting those figures for inflation and for the age and sex of the affected group led CBO to assume those 7,000 would lose an average of \$525, or \$4 million in December 2011. Savings in 2001 are just \$26 million because the fiscal year ends in September and birthdays occur throughout the year. By December 2013, three cohorts of retirees push the monthly savings up to \$10 million; savings in fiscal year 2013 equal \$80 million.

Real-life cases would be more varied than these simple examples. Some annuitants retire after 55 (and reach 62 years old before 2011); some are widowed (and qualify for Social Security at age 60, not at age 62); and others must wait for a younger spouse to reach 62 years old. But these typical cases illustrate why CBO estimates small savings through 2010 and rapidly growing amount after that.

Permission for Kentucky to operate divided retirement systems. Under section 218 of the Social Security Act, 21 state are allowed to operate retirement systems in which some but not all employees are covered under Social Security. In divided systems, new employees must pay Social Security tax, but employees already on the payroll may choose their coverage. H.R. 743 would add Kentucky to the list. A planned merger of two Louisville-area fire and police departments apparently spurs the provision. CBO assumes that 200 of the 1,300 workers affected would choose Social Security, and 60 or so new hires each year would add to their ranks. Extra Social Security taxes would grow from \$1 million in 2004 to \$5 million in 2013. Workers who switch coverage can avoid or soften the GPO and the windfall elimination provision, another rule that limits retired-worker (rather than spouse or survivor) benefits when beneficiaries get a pension from noncovered employment. Only a minority of the newly covered employees, through, would qualify for Social Security in the next 10 years, and CBO estimates extra costs of \$1 million in 2013.

Other provisions. H.R. 743 would correct sections of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) that govern SSA's research and demonstration projects. It would allow SSA to continue waiving certain provisions of law, when appropriate, for projects initiated before December 2004. Currently such waivers will expire abruptly on that date, even for projects already launched. SSA does not expect to use such waivers extensively other than for the \$1-for-\$2 demonstrations (see below), so CBO ascribes a negligible cost.

DI beneficiaries face limits on their earnings. Applicants who earn more than \$800 a month (labeled substantial gainful activity, or SGA) in 2003 cannot qualify for DI; beneficiaries who make more than that for a nine-month trial work period and three-month grace period lose their entire check. The 1999 law directed SSA to conduct demonstrations in which checks would be reduced by \$1 for each \$2 of earnings over certain thresholds. But that law left unclear how the projects would be funded. H.R. 743 clarifies that SSA would pay benefits from the trust fund and other costs—for the design, conduct, and evaluation of the demonstrations—from its appropriation for administrative expenses.

In the meantime, statisticians and other experts have advised SSA to conduct \$1-for-\$2 demonstrations narrower in scope than

CBO assumed in 1999. In particular, they believe SSA cannot realistically measure “induced filers” via the demonstrations. Induced filers—workers with severe impairments who would not otherwise have applied for benefits but who are attracted by a more liberal treatment of earnings—dominated CBO’s earlier analyses of the demonstrations’ costs. (As SSA’s plans became clearer, CBO removed those estimated costs from its baseline.) CBO expects that targeting the experiments only at a sample of current recipients would lead to little net change in benefits.

H.R. 743 would broaden the Work Opportunity Tax Credit to cover people who use a ticket for vocational rehabilitation (VR) under the 1999 law. That credit, which expires after December 2003, allows employers to subtract up to 40 percent of the first \$6,000 of wages from income tax when they hire members of targeted groups. People referred by state VR agencies are one such group; H.R. 743 would add DI and SSI beneficiaries who choose other VR providers, such as private firms or nonprofit organizations. The first tickets were distributed in 2002 and nationwide implementation will take three years. Because the tickets program is still in its early stages, the Joint Committee on Taxation estimates that broadening eligibility for the tax credit would reduce revenues by \$2 million in 2004.

Title IV would expand eligibility for widows’ and widowers’ benefits in narrow circumstances. To collect Social Security on a deceased worker’s record, a widow or widower must either have been married to the worker for nine months or be actively caring for the worker’s child. Lawmakers recently learned about an unusual case in which a worker could not marry his longtime companion because state law forbade him from divorcing his wife, who was in a mental institution. When his wife’s death finally permitted him to remarry, he was already terminally ill and died a few months later. H.R. 743 would waive the duration-of-marriage requirement in those rare circumstances. Only one such case has come to light and CBO assumes that the provision would have little cost.

Spending subject to appropriation

CBO estimates that implementing H.R. 743 would cost SSA \$15 million to \$20 million a year in extra enforcement and processing expenses through 2010. Extending the attorney-fee program to SSI is the biggest piece, accounting for \$11 million to \$14 million a year.

Under H.R. 743, SSA would split the first SSI check into at least two parts—one for the attorney and one for the beneficiary—as it does in DI. (A third party—the state—may also claim a share if it paid benefits under a so-called interim assistance program.) Based on a GAO report, CBO assumes that each DI case that involves attorney fees will cost SSA about \$235 in 2004. About \$50 of that is for fee approval (which SSA already performs in SSI) but \$185 is for fee processing (which SSA does not do in SSI). Multiplying by the assumed volume of cases yields expected costs of \$11 million in 2004 and slightly more through 2010, when the provision would expire.

Other provisions—chiefly those that would mandate more on-site inspections, bonding and licensing, and related scrutiny of representative payees and require SSA to produce new studies and re-

ports—would cost an estimated \$8 million in 2004 and \$4 million to \$6 million a year thereafter. The SSI and DI programs each would account for about half of those amounts.

On-budget effects on direct spending and revenues: The Congressional Budget Act labels Social Security “off-budget” and excludes it from the President’s budget, the House and Senate budget resolutions, and the Balanced Budget and Emergency Deficit Control Act of 1985. The net changes in governmental receipts (i.e., revenues) and outlays from direct spending—excluding Social Security—over the 2004–2013 period are shown in the following table.

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Changes in outlays	0	-8	-15	-19	-23	-26	-28	-25	-25	-27
Changes in receipts	-2	0	0	0	0	0	0	0	0	0

Intergovernmental and private-sector impact: Section 4 of the Unfunded Mandates Reform Act excludes from the provisions of that act any provision in a bill that relates to the Old-Age, Survivors, and Disability Insurance program under title II of the Social Security Act. The provisions of H.R. 743 that amend title II would fall within that exclusion.

Other provisions of the bill contain no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. They do, however, contain private-sector mandates as defined in UMRA. Section 204 would prohibit private entities from charging a fee for certain products and services that are available for free from SSA unless, at the time the offer is made, they provide a statement to that effect. Section 302 would impose a processing charge on private attorneys to whom SSA would disburse fees related to their representation of successful SSI claimants. CBO estimates that the costs to the private sector of those mandates would not exceed the threshold established by UMRA (\$117 million in 2003, adjusted annually for inflation).

Previous CBO estimate: On March 4, CBO transmitted a cost estimate for the introduced version of H.R. 743. That estimate cited a combined \$649 million in direct spending reductions and revenue increases over the 2004–2013 period. The version of the bill approved by the Committee on Ways and Means on March 13 differs slightly from the introduced version. Changes in the attorney-fee provisions—rounding the future cap on processing charges to the next lower \$1 (rather than \$10) and extending the program to SSI for five years (rather than three)—would add \$32 million to SSA’s receipts over the 2004–2013 period. CBO changed its estimate of the Medicare savings that would stem from the ban on Social Security benefits for fugitives, shrinking them by \$25 million. The earlier estimate had assumed incorrectly that the ban on Social Security benefits also led to a ban on Medicare benefits. In total, CBO judges that H.R. 743 as ordered reported would trim direct spending and boost revenues by a combined \$655 million over the 10-year period.

Estimate prepared by: Federal Spending: Kathy Ruffing; Federal Revenues: Edward Harris and Annabelle Bartsch; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Ralph Smith.

Estimate Approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

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, the Committee reports that the need for this legislation resulted from hearings conducted by the Subcommittee on Social Security in the 106th, 107th, and 108th Congresses. Details of these hearings are included in Title I. Summary and Background, Part C. Legislative History.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In compliance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 743 the bill contains measures that authorize funding for improving protection of beneficiaries with representative payees; addressing waste, fraud, and abuse in the program; enhancing provisions under the Ticket to Work and Work Incentives Improvement Act; as well as providing compensation to the Social Security Advisory Board. These measures will expand the Social Security Administration's ability to meet its stated goals of (1) ensuring the integrity of Social Security programs with zero tolerance for fraud and abuse; and, (2) promoting valued, strong, and responsive Social Security programs and conducting effective policy development, research, and program evaluation.

Through reporting requirements in this legislation, as well as reporting on achievement of performance objectives and measures laid out in the Social Security Administration's Annual Performance and Accountability Report, Congress and the Administration will be able to assess achievement of the related program objectives, including: (1) aggressively deter, identify, and resolve fraud; (2) increasing the number of SSDI and SSI disability beneficiaries who achieve steady employment and no longer receive cash benefits; and (3) improving the accuracy of processing post entitlement events.

C. CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, 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.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with Section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments. The Committee has determined that the bill does contain Federal mandates on the private sector. However, those mandates would not exceed the threshold established by Section 4 of the Unfunded Mandates Reform Act.

E. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

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 italics, 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

* * * * *

AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old Age Insurance Benefits

SEC. 202. (a) * * *

Wife's Insurance Benefits

(b)(1) * * *

* * * * *

(4)(A) The amount of a wife's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) [if, on] if, during any portion of the last 60 months of such service ending with the last day she was employed by such entity—

(i) * * *

* * * * *

Husband's Insurance Benefits

(c)(1) * * *

(2)(A) The amount of a husband's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband (or divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) [if, on] if, during any portion of the last 60 months of such service ending with the last day he was employed by such entity—

(i) * * *

* * * * *

Widow's Insurance Benefits

(e)(1) * * *

* * * * *

(7)(A) The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) [if, on] if, during any portion of the last 60 months of such service ending with the last day she was employed by such entity—

(i) * * *

* * * * *

Widower's Insurance Benefits

(f)(1) * * *

(2)(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (3)(D), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widower (or surviving divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) [if, on] *if, during any portion of the last 60 months of such service ending with the last day he was employed by such entity—*

(i) * * *

* * * * *

Mother's and Father's Insurance Benefits

(g)(1) * * *

* * * * *

(4)(A) The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsection (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) [if, on] *if, during any portion of the last 60 months of such service ending with the last day the individual was employed by such entity—*

(i) * * *

* * * * *

Termination of Benefits Upon [Deportation] *Removal* of Primary Beneficiary

(n)(1) If any individual is (after the date of enactment of this subsection) [deported under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)] *removed under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A) of the Immigration and Nationality Act, then, notwithstanding any other provisions of this title—*

(A) no monthly benefit under this section or section 223 shall be paid to such individual, on the basis of his wages and self employment income, for any month occurring (i) after the month in which the Commissioner of Social Security is notified by the Attorney General that such individual has been so [deported] *removed*, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence,

* * * * *

(2) As soon as practicable after the [deportation] *removal* of any individual [under any of the paragraphs of section 241(a) of the

Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)] *under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act*, the Attorney General shall notify the Commissioner of Social Security of such [deportation] *removal*.

(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of [deportation] *removal* has been issued under [paragraph (19) of section 241(a)] *subparagraph (D) of section 237(a)(4)* of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been [deported] *removed* under such [paragraph (19)] *subparagraph (D)* as of the date on which such order became final.

* * * * *

Limitation on Payments to [Prisoners and Certain Other Inmates of Publicly Funded Institutions] *Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees*

(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month ending with or during or beginning with or during a period of more than 30 days throughout all of which such individual—

(i) * * *

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

(I) * * *

* * * * *

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

(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding[.],

(iv) *is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or*

(v) *is violating a condition of probation or parole imposed under Federal or State law.*

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual.

* * * * *

(3)(A) * * *

* * * * *

(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

(i) the beneficiary—

(I) is described in clause (iv) or (v) of paragraph (1)(A); and

(II) has information that is necessary for the officer to conduct the officer's official duties; and

(ii) the location or apprehension of the beneficiary is within the officer's official duties.

* * * * *

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

* * * * *

(g) Any individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of the Commissioner's answer the Commissioner of Social Security shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing. The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Commissioner of Social Security or a decision is rendered under subsection (b) hereof which is adverse to an individual who was a party to the hearing before the Commissioner of Social Security, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) hereof, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court may, on motion of the Commissioner of Social Se-

curity made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Commissioner of Social Security shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm the Commissioner's findings of fact or the Commissioner's decision, or both, and shall file with the court any such additional and modified findings of fact and decision, [and a transcript] and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony upon which the Commissioner's action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.

* * * * *

Representative Payees

(j)(1) * * *

(2)(A) * * *

(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Commissioner of Social Security shall—

(I) * * *

* * * * *

(III) determine whether such person has been convicted of a violation of section 208, 811, or 1632, [and]

(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and

[(IV)] (VI) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection, the designation of such person as a representative payee has been revoked pursuant to section 807(a), or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title, title VIII, or title XVI.

* * * * *

(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written re-

quest of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

(I) such person is described in section 202(x)(1)(A)(iv),

(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

(III) the location or apprehension of such person is within the officer's official duties.

(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

(I) * * *

(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in [subparagraph (B)(i)(IV),,] subparagraph (B)(i)(VI) the designation of such person as a representative payee has been revoked pursuant to section 807(a), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in [section 1631(a)(2)(B)(ii)(IV)] section 1631(a)(2)(B)(ii)(VI), [or

(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration[.],

(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

(V) such person is person described in section 202(x)(1)(A)(iv).

* * * * *

(v) In the case of an individual described in paragraph (1)(B), when selecting such individual's representative payee, preference shall be given to—

(I) [a community-based nonprofit social service agency licensed or bonded by the State] a certified community-based nonprofit social service agency (as defined in paragraph (10)),

* * * * *

(3)(A) * * *

* * * * *

(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.

[(E)] (F) The Commissioner of Social Security shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

(i) * * *

* * * * *

[(F)] (G) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and [community-based nonprofit social service agencies] *certified community-based nonprofit social service agencies (as defined in paragraph (10))* which are qualified to serve as representative payees pursuant to this subsection or section 807 or 1631(a)(2) and which are located in the area served by such servicing office.

(4)(A)(i) [A] *Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—*

(I) * * *

(II) \$25.00 per month (\$50.00 per month in any case in which the individual is described in paragraph(1)(B)).

[The Secretary] *A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.*

* * * * *

(B) For purposes of this paragraph, the term "qualified organization" means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or [any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee] *any certified community-based nonprofit social service agency (as defined in paragraph (10))*, if such agency, in accordance with any applicable regulations of the Commissioner of Social Security—

(i) * * *

* * * * *

(5) In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to such misused benefits. *In any case in which a representative payee that—*

(A) is not an individual (regardless of whether it is a "qualified organization" within the meaning of paragraph (4)(B)); or
 (B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

[(6) The Commissioner of Social Security shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Commissioner of Social Security, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Commissioner of Social Security determines to be appropriate.]

(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (10) of this subsection or section 1631(a)(2)(I)); or

(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

(i) the number of such reviews;

(ii) the results of such reviews;

(iii) the number of cases in which the representative payee was changed and why;

(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(v) the number of cases discovered in which there was a misuse of funds;

(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

(viii) such other information as the Commissioner deems appropriate.

(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

[(7)] (8) For purposes of this subsection, the term "benefit based on disability" of an individual means a disability insurance benefit of such individual under section 223 or a child's, widow's, or widower's insurance benefit of such individual under section 202 based on such individual's disability.

(9) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this paragraph.

(10) For purposes of this subsection, the term "certified community-based nonprofit social service agency" means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent

audit on such agency which may have been performed since the previous certification.

* * * * *

REPRESENTATION OF CLAIMANTS

SEC. 206. (a)(1) The Commissioner of Social Security may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Commissioner of Social Security, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Commissioner of Social Security. *Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.* The Commissioner of Social Security may, after due notice and opportunity for hearing, suspend or prohibit from further practice before the Commissioner any such person, agent, or attorney who refuses to comply with the Commissioner's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Commissioner of Social Security may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Commissioner of Social Security under this title, and any agreement in violation of such rules and regulations shall be void. Except as provided in paragraph (2)(A), whenever the Commissioner of Social Security, in any claim before the Commissioner for benefits under this title, makes a determination favorable to the claimant, the Commissioner shall, if the claimant was represented by an attorney in connection with such claim, fix (in accordance with the regulations prescribed pursuant to the pre-

ceding sentence) a reasonable fee to compensate such attorney for the services performed by him in connection with such claim.

* * * * *

(d) ASSESSMENT ON ATTORNEYS.—

(1) * * *

(2) AMOUNT.—

(A) The amount of an assessment under paragraph (1) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be so certified by subsection (a)(4) or (b)(1) before the application of this subsection, by the percentage specified in subparagraph (B), *except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences. In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.*

* * * * *

PENALTIES

SEC. 208. (a) * * *

(b)(1) *Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.*

(2) *Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.*

(3) *If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.*

[(b)] (c) Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that

full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

[(c)] (d) Any individual or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j). For the purpose of subsection (a)(7), the terms “social security number” and “social security account number” mean such numbers as are assigned by the Commissioner of Social Security under section 205(c)(2) whether or not, in actual use, such numbers are called social security numbers.

[(d)] (e)(1) Except as provided in paragraph (2), an alien—

(A) * * *

* * * * *

DEFINITION OF WAGES

SEC. 209. (a) For the purposes of this title, the term “wages” means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(1) * * *

* * * * *

(6)(A) * * *

(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service [described in section 210(f)(5)] *on a farm operated for profit*), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;

* * * * *

DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

Employment

(a) * * *

* * * * *

Agricultural Labor

(f) The term “agricultural labor” includes all service performed—

(1) * * *

* * * * *

(5) On a farm operated for profit if such service is not in the course of the employer’s trade or business [or is domestic service in a private home of the employer].

* * * * *

SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term “net earnings from self-employment” means the gross income, as computed under subtitle A of the Internal Revenue Code of 1986, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 702(a)(8) of such Code, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) * * *

* * * * *

(5)(A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, [all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife;] *the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;*

* * * * *

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), and section 911 (relating to earned income from sources without the United States) of the Internal Revenue Code of 1986, *but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires;*

* * * * *

(15) The deduction under [section 162(m)] *section 162(l)* (relating to health insurance costs of self-employed individuals) shall not be allowed.

* * * * *

OTHER DEFINITIONS

SEC. 216. For the purposes of this title—

Spouse; Surviving Spouse

(a) * * *

* * * * *

Widow

(c)(1) The term “widow” (except when used in the first sentence of section 202(i)) means the surviving wife of an individual, but only if [(1)] (A) she is the mother of his son or daughter, [(2)] (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, [(3)] (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, [(4)] (D) she was married to him at the time both of them legally adopted a child under the age of eighteen, [(5)] (E) *except as provided in paragraph (2)*, she was married to him for a period of not less than nine months immediately prior to the day on which he died, or [(6)] (F) in the month prior to the month of her marriage to him [(A)] (i) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 202, [(B)] (ii) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or [(C)] (iii) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow’s, child’s (after attainment of age 18), or parent’s insurance annuity under section 2 of the Railroad Retirement Act of 1974, as amended.

(2) *The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—*

(A) *the individual had been married prior to the individual’s marriage to the surviving wife,*

(B) *the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,*

(C) *during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),*

(D) *the prior wife continued to remain institutionalized up to the time of her death, and*

(E) the individual married the surviving wife within 60 days after the prior wife's death.

* * * * *

Widower

(g)(1) The term "widower" (except when used in the first sentence of section 202(i)) means the surviving husband of an individual, but only if [(1)] (A) he is the father of her son or daughter, [(2)] (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, [(3)] (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, [(4)] (D) he was married to her at the time both of them legally adopted a child under the age of eighteen, [(5)] (E) *except as provided in paragraph (2)*, married to her for a period of not less than nine months immediately prior to the day on which she died, or [(6)] (F) in the month before the month of his marriage to her [(A)] (i) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f) or (h) of section 202, [(B)] (ii) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or [(C)] (iii) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 2 of the Railroad Retirement Act of 1974, as amended.

(2) *The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—*

(A) the individual had been married prior to the individual's marriage to the surviving husband,

(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

(D) the prior husband continued to remain institutionalized up to the time of his death, and

(E) the individual married the surviving husband within 60 days after the prior husband's death.

* * * * *

Waiver of Nine-Month Requirement for Widow, Stepchild, or Widower in Case of Accidental Death or in Case of Serviceman Dying in Line of Duty, or in Case of Remarriage to the Same Individual

(k) The requirement in [clause (5) of subsection (c) or clause (5) of subsection (g)] *clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)* that the surviving spouse of an individual have been married to such individual for a period of not less than nine months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in subsection (e) that the stepchild of a deceased individual have been such stepchild for not less than nine months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to be satisfied, where such individual dies within the applicable nine-month period, if—

(1) * * *
 * * * * *

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) * * *
 * * * * *

Positions Covered By Retirement Systems

(d)(1) * * *
 * * * * *
 (6)(A) * * *
 * * * * *

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, *Kentucky*, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after the date of enactment of this subparagraph, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the

division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

* * * * *

REHABILITATION SERVICES

Referral for Rehabilitation Services

SEC. 222. (a) * * *

* * * * *

Period of Trial Work

(c)(1) * * *

* * * * *

(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized, no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.

* * * * *

DEMONSTRATION PROJECT AUTHORITY

SEC. 234. (a) * * *

* * * * *

(c) **AUTHORITY TO WAIVE COMPLIANCE WITH BENEFITS REQUIREMENTS.**—In the case of any experiment or demonstration project **【conducted under subsection (a)】** *initiated under subsection (a) on or before December 17, 2004*, the Commissioner may waive compliance with the benefit requirements of this title and the requirements of section 1148 as they relate to the program established under this title, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) **REPORTS.**—

(1) * * *

(2) **TERMINATION AND FINAL REPORT.**—**【The authority under the preceding provisions of this section (including any waiver granted pursuant to subsection (c)) shall terminate 5 years after the date of the enactment of this Act.】** *The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.* Not later than 90 days after the termination of any experiment or demonstration project carried out under this section, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to that experiment or demonstration project.

* * * * *

TITLE VII—ADMINISTRATION

* * * * *

SOCIAL SECURITY ADVISORY BOARD

Establishment of Board

SEC. 703. (a) * * *

* * * * *

【Expenses and Per Diem

【(f) Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.】

Compensation, Expenses, and Per Diem

(f) A member of the Board shall, for each day (including travel-time) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

* * * * *

ADMINISTRATIVE DUTIES OF THE COMMISSIONER

Personnel

SEC. 704. (a) * * *

Budgetary Matters

(b)(1) * * *

* * * * *

(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.

* * * * *

TITLE VIII—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS

* * * * *

SEC. 807. REPRESENTATIVE PAYEES.

(a) **IN GENERAL.**—If the Commissioner of Social Security determines that the interest of any qualified individual under this title would be served thereby, payment of the qualified individual's benefit under this title may be made, regardless of the legal com-

petency or incompetency of the qualified individual, either directly to the qualified individual, or **[for his or her benefit]** *for his or her use and benefit*, to another person (the meaning of which term, for purposes of this section, includes an organization) with respect to whom the requirements of subsection (b) have been met (in this section referred to as the qualified individual's "representative payee"). If the Commissioner of Social Security determines that a representative payee has misused any benefit paid to the representative payee pursuant to this section, section 205(j), or section 1631(a)(2), the Commissioner of Social Security shall promptly revoke the person's designation as the qualified individual's representative payee under this subsection, and shall make payment to an alternative representative payee or, if the interest of the qualified individual under this title would be served thereby, to the qualified individual.

(b) EXAMINATION OF FITNESS OF PROSPECTIVE REPRESENTATIVE PAYEE.—

(1) * * *

(2) As part of the investigation referred to in paragraph (1), the Commissioner of Social Security shall—

(A) * * *

* * * * *

(C) determine whether the person has been convicted of a violation of section 208, 811, or 1632; **[and]**

(D) *obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;*

(E) *obtain information concerning whether such person is a person described in section 804(a)(2); and*

[(D)] (F) determine whether payment of benefits to the person in the capacity as representative payee has been revoked or terminated pursuant to this section, section 205(j), or section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title, title II, or XVI, respectively.

(3) *Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—*

(A) *such person is described in section 804(a)(2),*

(B) *such person has information that is necessary for the officer to conduct the officer's official duties, and*

(C) *the location or apprehension of such person is within the officer's official duties.*

* * * * *

(d) PERSONS INELIGIBLE TO SERVE AS REPRESENTATIVE PAYEES.—
 (1) IN GENERAL.—The benefits of a qualified individual may not be paid to any other person pursuant to this section if—

(A) * * *

(B) except as provided in paragraph (2), payment of benefits to the person in the capacity of representative payee has been revoked or terminated under this section, section 205(j), or section 1631(a)(2)(A)(ii) by reason of misuse of funds paid as benefits under this title, title II, or title XVI, respectively; [or]

(C) except as provided in paragraph (2)(B), the person is a creditor of the qualified individual and provides the qualified individual with goods or services for consideration[.];

(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

(E) such person is a person described in section 804(a)(2).

* * * * *

(h) ACCOUNTABILITY MONITORING.—

(1) * * *

* * * * *

(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—*In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.*

[(3)] (4) MAINTAINING LISTS OF PAYEES.—The Commissioner of Social Security shall maintain lists which shall be updated periodically of—

(A) * * *

* * * * *

[(4)] (5) MAINTAINING LISTS OF AGENCIES.—The Commissioner of Social Security shall maintain lists, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this section and which are located in the jurisdiction in which any qualified individual resides.

(i) [RESTITUTION.—In any case where]

(i) RESTITUTION.—

(1) IN GENERAL.—*In any case where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall*

make payment to the qualified individual or the individual's alternative representative payee of an amount equal to the misused benefits. *In any case in which a representative payee that—*

(A) is not an individual; or

(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

(2) COURT ORDER FOR RESTITUTION.—

(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.

(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this subsection.

(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

(2) *Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—*

(A) the number of such reviews;

(B) the results of such reviews;

(C) the number of cases in which the representative payee was changed and why;

(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(E) the number of cases discovered in which there was a misuse of funds;

(F) how any such cases of misuse of funds were dealt with by the Commissioner;

(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

(H) such other information as the Commissioner deems appropriate.

(I) LIABILITY FOR MISUSED AMOUNTS.—

(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

* * * * *

TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION

* * * * *

PART A—GENERAL PROVISIONS

* * * * *

SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESSMENTS FOR TITLES II, VIII AND XVI.

(a)(1) Any person (including an organization, agency, or other entity) [who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

[(A) monthly insurance benefits under title II,

[(B) benefits or payments under title VIII, or

[(C) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to,] who—

(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

(B) makes such a statement or representation for such use with knowing disregard for the truth, or

(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such statement or representation or each receipt of such benefits or payments while withholding disclosure of such fact. Such person also shall be subject to an assessment, in lieu of damages sustained by the United States because of such statement or representation or because of such withholding of disclosure of a material fact, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation or such a withholding of disclosure. In addition, the Commissioner of Social Security may make a determination in the same proceeding to recommend that the Secretary exclude, as provided in section 1128, such a person who is a medical provider or physician from participation in the programs under title XVIII.

* * * * *

(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money

penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.

(b)(1) * * *

* * * * *

(3) In a proceeding under this section which—

(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal or State crime [charging fraud or false statements]; and

* * * * *

(c) In determining pursuant to subsection (a) the amount or scope of any penalty or assessment, or whether to recommend and exclusion, the Commissioner of Social Security shall take into account—

(1) the nature of the statements [and representations], *representations, or actions* referred to in subsection (a) and the circumstances under which they occurred;

* * * * *

(e)(1) Civil money penalties and assessments imposed under this section may be compromised by the Commissioner of Social Security and may be recovered—

(A) in a civil action in the name of the United States brought in United States district court for the district where the [statement or representation referred to in subsection (a) was made] *violation occurred*, or where the person resides, as determined by the Commissioner of Social Security;

* * * * *

(2) Amounts recovered under this section shall be recovered under by the Commissioner of Social Security and shall be disposed of as follows:

(A) * * *

(B) [In the case of amounts recovered arising out of a determination relating to title VIII or XVI,] *In the case of any other amounts recovered under this section*, the amounts shall be deposited by the Commissioner of Social Security into the general fund of the Treasury as miscellaneous receipts.

* * * * *

SEC. 1129A. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.

(a) IN GENERAL.—Any person [who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

[(1) monthly insurance benefits under title II; or

[(2) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or who makes such a statement with knowing disregard for the truth shall be subject to,] *who—*

(1) *makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or con-*

tinuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

(2) makes such a statement or representation for such use with knowing disregard for the truth, or

(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.

* * * * *

ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term "threats of force" means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.

* * * * *

[PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE] PROHIBITIONS RELATING TO REFERENCES TO SOCIAL SECURITY OR MEDICARE

SEC. 1140. (a)(1) No person may use, in connection with any item constituting an advertisement, solicitation, circular, book, pamphlet, or other communication, or a play, motion picture, broadcast, telecast, or other production, alone or with other words, letters, symbols, or emblems—

(A) the words "Social Security", "Social Security Account", "Social Security System", "Social Security Administration", "Medicare", "Health Care Financing Administration", "Centers for Medicare & Medicaid Services", "Department of Health and Human Services", "Health and Human Services", "Supplemental Security Income Program", [or "Medicaid",] "Medicaid", "Death Benefits Update", "Federal Benefit Information",

“Funeral Expenses”, or “Final Supplemental Plan”, the letters “SSA”, “HCFA”, “CMS”, “DHHS”, “HHS”, or “SSI”, or any other combination or variation of such words or letters, or

(B) a symbol or emblem of the Social Security Administration, Health Care Financing Administration, *Centers for Medicare & Medicaid Services*, or Department of Health and Human Services (including the design of, or a reasonable facsimile of the design of, the social security card issued pursuant to section 205(c)(2)(F), or the Medicare card the check used for payment of benefits under title II, or envelopes or other stationery used by the Social Security Administration, Health Care Financing Administration, *Centers for Medicare & Medicaid Services*, or Department of Health and Human Services) or any other combination or variation of such symbols or emblems,

in a manner which such person knows or should know would convey, or in a manner which reasonably could be interpreted or construed as conveying, the false impression that such item is approved, endorsed, or authorized by the Social Security Administration, [the Health Care Financing Administration,] *the Centers for Medicare & Medicaid Services*, or the Department of Health and Human Services or that such person has some connection with, or authorization from, the Social Security Administration, [the Health Care Financing Administration,] *the Centers for Medicare & Medicaid Services*, or the Department of Health and Human Services. The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.

* * * * *

(4)(A) *No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—*

- (i) explains that the product or service is available free of charge from the Social Security Administration, and*
- (ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.*

(B) *Subparagraph (A) shall not apply to any offer—*

- (i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or*
- (ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.*

* * * * *

SOCIAL SECURITY ACCOUNT STATEMENTS

Provision Upon Request

SEC. 1143. (a)(1) Beginning not later than October 1, 1990, the **【Secretary】 Commissioner of Social Security** shall provide upon the request of an eligible individual a social security account statement (hereinafter referred to as the "statement").

(2) Each statement shall contain—

(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the **【Secretary】 Commissioner** at the date of the request;

(B) an estimate of the aggregate of the employer, employee, and self-employment contributions of the eligible individual for old-age, survivors, and disability insurance as shown by the records of the **【Secretary】 Commissioner** on the date of the request;

(C) a separate estimate of the aggregate of the employer, employee, and self-employment contributions of the eligible individual for hospital insurance as shown by the records of the **【Secretary】 Commissioner** on the date of the request; and

* * * * *

Notice to Eligible Individuals

(b) The **【Secretary】 Commissioner** shall, to the maximum extent practicable, take such steps as are necessary to assure that eligible individuals are informed of the availability of the statement described in subsection (a).

Mandatory Provision of Statements

(c)(1) By not later than September 30, 1995, the **【Secretary】 Commissioner** shall provide a statement to each eligible individual who has attained age 60 by October 1, 1994, and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the **【Secretary】 Commissioner** determines to be appropriate. In fiscal years 1995 through 1999 the **【Secretary】 Commissioner** shall provide a statement to each eligible individual who attains age 60 in such fiscal years and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the **【Secretary】 Commissioner** determines to be appropriate. The **【Secretary】 Commissioner** shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

(2) Beginning not later than October 1, 1999, the **【Secretary】 Commissioner** shall provide a statement on an annual basis to each eligible individual who is not receiving benefits under title II and for whom a mailing address can be determined through such methods as the **【Secretary】 Commissioner** determines to be appropriate. With respect to statements provided to eligible individuals who have not attained age 50, such statements need not include estimates of monthly retirement benefits. However, if such statements provided to eligible individuals who have not attained age 50 do not include estimates of retirement benefit amounts, such state-

ments shall include a description of the benefits (including auxiliary benefits) that are available upon retirement.

* * * * *

THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

SEC. 1148. (a) * * *

* * * * *

(g) INDIVIDUAL WORK PLANS.—

(1) REQUIREMENTS.—Each employment network shall—

(A) * * *

* * * * *

An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.

* * * * *

WORK INCENTIVES OUTREACH PROGRAM

SEC. 1149. (a) * * *

* * * * *

(c) DEFINITIONS.—In this section:

(1) * * *

[(2) DISABLED BENEFICIARY.—The term “disabled beneficiary” has the meaning given that term in section 1148(k)(2).]

(2) DISABLED BENEFICIARY.—The term “disabled beneficiary” means an individual—

(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.

* * * * *

STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES

SEC. 1150. (a) * * *

(b) SERVICES PROVIDED.—Services provided to disabled beneficiaries pursuant to a payment made under this section may include—

(1) * * *

(2) advocacy or other services that a disabled beneficiary may need to [secure or regain] secure, maintain, or regain gainful employment.

* * * * *

(g) DEFINITIONS.—In this section:

(1) * * *

[(2) DISABLED BENEFICIARY.—The term “disabled beneficiary” has the meaning given that term in section 1148(k)(2).]

(2) DISABLED BENEFICIARY.—The term “disabled beneficiary” means an individual—

(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.

* * * * *

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * *

PART A—DETERMINATION OF BENEFITS

* * * * *

RESOURCES

Exclusions From Resources

SEC. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) * * *

* * * * *

(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F); [and]

(13) any gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code—

(A) * * *

(B) in the case of a cash gift, only to the extent that the total amount excluded from the resources of the individual

pursuant to this paragraph in the calendar year in which the gift is made does not exceed \$2,000[.]; and
 (14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.

* * * * *

PART B—PROCEDURAL AND GENERAL PROVISIONS

PAYMENTS AND PROCEDURES

Payment of Benefits

SEC. 1631. (a)(1) * * *

(2)(A)(i) * * *

(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this clause.

(B)(i) * * *

(ii) As part of the investigation referred to in clause (i)(I), the Commissioner of Social Security shall—

(I) * * *

* * * * *

(III) determine whether such person has been convicted of a violation of section 208, 811, or 1632; [and]

(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and

[(IV)] (VI) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(iii), whether the designation of such person as a representative payee has been revoked pursuant to section 807(a), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II, title VIII, or this title.

(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

(I) * * *

(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in [clause (ii)(IV)] clause (ii)(VI), the designation of such person as a representative payee has been revoked pursuant to section 807(a), or certification of payment of benefits to such person under section 205(j) has pre-

viously been revoked as described in **[section 205(j)(2)(B)(i)(IV)] section 205(j)(2)(B)(i)(VI); [or]**

(III) except as provided in clause (v), such person is a creditor of such individual who provides such individual with goods or services for consideration**[.];**

(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

(V) such person is a person described in section 1611(e)(4)(A).

* * * * *

(vii) In the case of an individual described in subparagraph (A)(ii)(II), when selecting such individual's representative payee, preference shall be given to—

(I) **[a community-based nonprofit social service agency licensed or bonded by the State]** *a certified community-based nonprofit social service agency (as defined in subparagraph (I));*

* * * * *

(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

(I) such person is described in section 1611(e)(4)(A),

(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

(III) the location or apprehension of such person is within the officer's official duties.

(C)(i) * * *

* * * * *

(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.

(D)(i) **[A]** *Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—*

(I) * * *

* * * * *

[The Commissioner] *A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner of Social Security shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00. Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of such individual's benefits.*

(ii) For purposes of this subparagraph, the term "qualified organization" means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, [or any community-based nonprofit social service agency, which—

[(I)] is bonded or licensed in each State in which the agency serves as a representative payee; and

[(II)] in accordance] *or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance with any applicable regulations of the Commissioner of Social Security—*

[(aa)] *(I) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) or 807 concurrently to 5 or more individuals; and*

[(bb)] *(II) demonstrates to the satisfaction of the Commissioner of Social Security that such agency is not otherwise a creditor of any such individual.*

The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant an exception from **[subclause (II)(bb)] subclause (II)** for any individual on a case-by-case basis if such exception is in the best interests of such individual.

* * * * *

(E) RESTITUTION.—In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. *In any case in which a representative payee that—*

(i) is not an individual (regardless of whether it is a "qualified organization" within the meaning of subparagraph (D)(i));
or

(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

* * * * *

[(G) The Commissioner of Social Security shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

[(i) the number of cases in which the representative payee was changed;

[(ii) the number of cases discovered where there has been a misuse of funds;

[(iii) how any such cases were dealt with by the Commissioner of Social Security;

[(iv) the final disposition of such cases (including any criminal penalties imposed); and

[(v) such other information as the Commissioner of Social Security determines to be appropriate.

[(H) The Commissioner of Social Security shall make an initial report to each House of the Congress on the implementation of subparagraphs (B) and (C) within 270 days after the date of the enactment of this subparagraph. The Commissioner of Social Security shall include in the annual report required under section 704, information with respect to the implementation of subparagraphs (B) and (C), including the same factors as are required to be included in the Commissioner's report under section 205(j)(4)(B).]

(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(10)); or

(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted dur-

ing the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

(I) the number of the reviews;

(II) the results of such reviews;

(III) the number of cases in which the representative payee was changed and why;

(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(V) the number of cases discovered in which there was a misuse of funds;

(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

(VIII) such other information as the Commissioner deems appropriate.

(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

(I) For purposes of this paragraph, the term "certified community-based nonprofit social service agency" means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.

* * * * *

Procedures; Prohibitions of Assignments; Representation of
Claimants

(d)(1) * * *

(2)(A) The provisions of section 206[(a) (other than paragraph (4) thereof)] *(other than subsections (a)(4) and (d) thereof)* shall apply to this part to the same extent as they apply in the case of title II, except that [paragraph (2) thereof] *such section* shall be applied—

(i) by substituting, [in subparagraphs (A)(ii)(I) and (C)(i),] *in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2) the phrase “(as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))” for the parenthetical phrase contained therein; [and*

[(ii) by substituting “section 1631(a)(7)(A) or the requirements of due process of law” for “subsection (g) or (h) of section 223”.

[(B) The Commissioner of Social Security shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the options for obtaining attorneys to represent individuals in presenting their cases before the Commissioner of Social Security. Such notification shall also advise the claimant of the availability to qualifying claimants of legal services organizations which provide legal services free of charge.]

(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase “section 1631(a)(7)(A) or the requirements of due process of law” for the phrase “subsection (g) or (h) of section 223”;

(iii) by substituting, in subsection (a)(2)(C)(i), the phrase “under title II” for the phrase “under title XVI”;

(iv) by substituting, in subsection (b)(1)(A), the phrase “pay the amount of such fee” for the phrase “certify the amount of such fee for payment” and by striking, in subsection (b)(1)(A), the phrase “or certified for payment”; and

(v) by substituting, in subsection (b)(1)(B)(ii), the phrase “deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)” for the phrase “determined before any applicable reduction under section 1127(a)”.

(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subpara-

graph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.

* * * * *

PENALTIES FOR FRAUD

SEC. 1632. (a) * * *

(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

(3) *If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.*

[(b)] (c)(1) * * *

* * * * *

SECTION 302 OF THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

SEC. 302. DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

(a) * * *

* * * * *

(c) **WAIVERS.**—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act [(42 U.S.C. 401 et seq.),] (42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act, and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act (42 U.S.C. 1395 et seq.), insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

* * * * *

[(f) **EXPENDITURES.**—Expenditures made for demonstration projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.]

(f) *EXPENDITURES.*—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the

Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.

INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

* * * * *

CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

* * * * *

SEC. 1401. RATE OF TAX.

(a) * * *

* * * * *

(c) **RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.**—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement [to taxes or contributions for similar purposes under] *exclusively to the laws applicable to the social security system of such foreign country.*

SEC. 1402. DEFINITIONS.

(a) **NET EARNINGS FROM SELF-EMPLOYMENT.**—The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) * * *

* * * * *

(5) if—

(A) any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, [all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife; and] *the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business*

or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and

* * * * *

Subtitle C—Employment Taxes

* * * * *

CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

* * * * *

Subchapter A—Tax on Employees

* * * * *

SEC. 3101. RATE OF TAX.

(a) * * *

* * * * *

(c) **RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.**—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement [to taxes or contributions for similar purposes under] *exclusively to the laws applicable to the social security system of such foreign country.*

* * * * *

SEC. 3102. DEDUCTION OF TAX FROM WAGES

(a) **REQUIREMENT.**—The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than the applicable dollar threshold (as defined in section 3121(x) for such year; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remunera-

tion paid to the employee by the employer in the calendar year is less than \$150 [and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis]; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

* * * * *

Subchapter B—Tax on Employers

* * * * *

SEC. 3111. RATE OF TAX.

(a) * * *

* * * * *

(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement [to taxes or contributions for similar purposes under] *exclusively to the laws applicable to the social security system of such foreign country.*

* * * * *

Subchapter C—General Provisions

* * * * *

SEC. 3121. DEFINITIONS.

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

(1) * * *

* * * * *

(7)(A) * * *

(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service [described in subsection (g)(5)] *on a farm operated for profit*), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;

* * * * *

(g) AGRICULTURAL LABOR.—For purposes of this chapter, the term “agricultural labor” includes all service performed—

(1) * * *

* * * * *

(5) on a farm operated for profit if such service is not in the course of the employer’s trade or business [or is domestic service in a private home of the employer].

* * * * *



Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walsh
Wamp
Waters
Watson

Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker

NAYS—11

Boucher
Cooper
DeFazio
Flake

Ose
Paul
Rohrabacher
Royce

Sanders
Stark
Taylor (MS)

NOT VOTING—12

Combest
Davis (TN)
Doolittle
Gephardt

Hyde
Jones (NC)
Kolbe
McCarthy (MO)

McInnis
Souder
Walden (OR)
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. LAHOOD) (during the vote). The Chair reminds Members that there are 2 minutes remaining to vote.

□ 1205

Mr. DEFAZIO and Mr. TAYLOR of Mississippi changed their vote from "yea" to "nay."

So the bill was passed. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

The **SPEAKER** pro tempore. The pending business is the question on ordering the previous question on House Resolution 168 on which further proceedings were postponed earlier today. The Clerk read the title of the resolution.

The **SPEAKER** pro tempore. The question is on ordering the previous question on which the yeas and nays are ordered.

This will be a 5-minute vote. Any electronic vote that might be ordered on the question of adopting the rule also would be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 245, nays 177, not voting 12, as follows:

[Roll No. 99]

YEAS—245

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggart
Billirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehler
Boehner
Bonilla
Bonner

Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite.
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble

Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis, Jo Ann
Davis, Tom
Deal (CA)
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Dreier
Duncan
Dunn
Ehlers

Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrist
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hobson
Hoeffel
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston

Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula

Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel

Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Insee
Israel
Jackson (IL)
Jackson-Lee
(TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind

Kiecicka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar

Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)

Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland

Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—12

Combest
Davis (TN)
Doolittle
Gephardt

Hyde
Jones (NC)
Kolbe
McCarthy (MO)

McInnis
Paul
Souder
Walden (OR)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (during the vote). The Chair reminds Members that there are 2 minutes remaining to vote.

□ 1213

Ms. KILPATRICK, Messrs. LANTOS, WYNN and MORAN of Virginia, Mrs. MALONEY, Mr. MCINTYRE and Mr. BELL changed their vote from "yea" to "nay."

So the previous question was ordered. The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KOLBE. Mr. Speaker, earlier today, I was unavoidably detained and missed votes on the following measures:

1. Final Passage of H.R. 522—Federal Deposit Insurance Reform Act of 2003 (No. 98). Had I been present, I would have voted "yea."
2. Previous Question on the Rule providing for consideration of H.R. 743—Social Security Protection Act of 2003 (No. 99). Had I been present, I would have voted "yea."

The **SPEAKER** pro tempore. The question is on the resolution.

The resolution was agreed to. A motion to reconsider was laid on the table.

□ 1215

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Mr. Speaker, pursuant to House Resolution 168, I call up the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill. The **SPEAKER** pro tempore (Mr. LINDER). Pursuant to House Resolution 168, the bill is considered read for amendment.

The text of H.R. 743 is as follows:

H.R. 743

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Social Security Protection Act of 2003".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

Sec. 205. Refusal to recognize certain individuals as claimant representatives.

Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) **TITLE II AMENDMENTS.**—

(1) **REISSUANCE OF BENEFITS.**—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) **MISUSE OF BENEFITS DEFINED.**—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and

converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) **TITLE VIII AMENDMENTS.**—

(1) **REISSUANCE OF BENEFITS.**—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(1) is not an individual; or

"(2) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2)."

(2) **MISUSE OF BENEFITS DEFINED.**—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

"(j) **MISUSE OF BENEFITS.**—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) **TECHNICAL AMENDMENT.**—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) **TITLE XVI AMENDMENTS.**—

(1) **REISSUANCE OF BENEFITS.**—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) **EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.**—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative

payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.”.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

“(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this clause.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in paragraph (9))”;

(B) in paragraph (3)(F), by striking “community-based nonprofit social service agencies” and inserting “certified community-based nonprofit social service agencies (as defined in paragraph (9))”;

(C) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (9))”; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

“(9) For purposes of this subsection, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.”.

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in subparagraph (I))”;

(B) in subparagraph (D)(ii)—

(i) by striking “or any community-based” and all that follows through “in accordance” in subclause (II) and inserting “or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance”;

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking “subclause (II)(bb)” and inserting “subclause (II)”; and

(C) by adding at the end the following new subparagraph:

“(I) For purposes of this paragraph, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

“(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

“(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

“(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

“(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(i) the number of such reviews;

“(ii) the results of such reviews;

“(iii) the number of cases in which the representative payee was changed and why;

“(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(v) the number of cases discovered in which there was a misuse of funds;

“(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

“(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(viii) such other information as the Commissioner deems appropriate.”.

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

“(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

“(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

“(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

“(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(A) the number of such reviews;

“(B) the results of such reviews;

“(C) the number of cases in which the representative payee was changed and why;

“(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(E) the number of cases discovered in which there was a misuse of funds;

“(F) how any such cases of misuse of funds were dealt with by the Commissioner;

“(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(H) such other information as the Commissioner deems appropriate.”.

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

“(C)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

“(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

“(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

- "(I) the number of the reviews;
- "(II) the results of such reviews;
- "(III) the number of cases in which the representative payee was changed and why;
- "(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;
- "(V) the number of cases discovered in which there was a misuse of funds;
- "(VI) how any such cases of misuse of funds were dealt with by the Commissioner;
- "(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and
- "(VIII) such other information as the Commissioner deems appropriate."

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

- (1) in subparagraph (B)(i)—
 - (A) by striking "and" at the end of subclause (III);
 - (B) by redesignating subclause (IV) as subclause (VI); and
 - (C) by inserting after subclause (III) the following new subclauses:
 - "(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.
 - "(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and"
 - (2) in subparagraph (C)(i)(II), by striking "subparagraph (B)(i)(IV)," and inserting "subparagraph (B)(i)(VI)" and striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(ii)(VI)"; and
 - (3) in subparagraph (C)(i)—
 - (A) by striking "or" at the end of subclause (II);
 - (B) by striking the period at the end of subclause (III) and inserting a comma; and
 - (C) by adding at the end the following new subclauses:
 - "(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or
 - "(V) such person is person described in section 202(x)(1)(A)(iv)."

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

- (1) in subsection (b)(2)—
 - (A) by striking "and" at the end of subparagraph (C);
 - (B) by redesignating subparagraph (D) as subparagraph (F); and
 - (C) by inserting after subparagraph (C) the following new subparagraphs:

"(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(E) obtain information concerning whether such person is a person described in section 804(a)(2); and"; and

(2) in subsection (d)(1)—

- (A) by striking "or" at the end of subparagraph (B);
- (B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and
- (C) by adding at the end the following new subparagraphs:

"(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

"(E) such person is a person described in section 804(a)(2)."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

- (A) by striking "and" at the end of subclause (III);
- (B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

"(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and";

(2) in clause (iii)(II)—

- (A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and
- (B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)"; and

(3) in clause (iii)—

- (A) by striking "or" at the end of subclause (II);
- (B) by striking the period at the end of subclause (III) and inserting a semicolon; and
- (C) by adding at the end the following new subclauses:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

"(V) such person is a person described in section 1611(e)(4)(A)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Secretary" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner"

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(4) by inserting after paragraph (6) the following new paragraph:

"(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under

subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

"(1) LIABILITY FOR MISUSED AMOUNTS.—

"(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

(2) by striking subparagraph (H) and inserting the following:

"(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42

U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States result-

ing from the conversion, of not more than twice the amount of any payments so converted."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to" and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading.

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

shall be subject to";

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking "who" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading.

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

shall be subject to."

(b) **CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.**—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section."

(c) **CONFORMING AMENDMENTS.**—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting "representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, and Fugitives";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(v) is violating a condition of probation or parole imposed under Federal or State law. In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Rev-

enue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary—

"(I) is described in clause (iv) or (v) of paragraph (1)(A); and

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties."

(b) **REGULATIONS.**—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.**—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting

after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe."

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

"ATTEMPTS TO INTERFERE WITH

ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor."

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) **IN GENERAL.**—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," by striking "or Medicaid," and inserting "Medicaid", "Death Benefits Update", "Federal Benefit Information", "Funeral Expenses", or "Final Supplemental Plan," and by inserting "CMS," after "HCFA";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items

sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

“(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

“(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

“(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

“(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized.

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”

(b) AMENDMENTS TO TITLE VIII.—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking “(i) RESTITUTION.—In any case where” and inserting the following:

“(i) RESTITUTION.—

“(1) IN GENERAL.—In any case where”; and (2) by adding at the end the following new paragraph:

“(2) COURT ORDER FOR RESTITUTION.—

“(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty

authorized by law, that the defendant make restitution to the Social Security Administration.

“(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

“(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.”

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”

(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

“(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

“(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting “, except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”; and

(2) by adding at the end the following new sentence: “In the case of any calendar year beginning after the date of the enactment of the Social Security Program Protection Act of 2003, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$10 shall be rounded to the next lowest multiple of \$10, but in no case less than \$75.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking “section 206(a)” and inserting “section 206”; and

(B) by striking “(other than paragraph (4) thereof)” and inserting “(other than subsections (a)(4) and (d) thereof)”; and

(C) by striking “paragraph (2) thereof” and inserting “such section”;

(2) in subparagraph (A)(i), by striking “in subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)”, and by striking “and” at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

“(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A) or the requirements of due process of law’ for the phrase ‘subsection (g) or (h) of section 223’;

“(iii) by substituting, in subsection (a)(2)(C)(i), the phrase ‘under title II’ for the phrase ‘under title XVI’;

“(iv) by substituting, in subsection (b)(1)(A), the phrase ‘pay the amount of such fee’ for the phrase ‘certify the amount of such fee for payment’ and by striking, in subsection (b)(1)(A), the phrase ‘or certified for payment’; and

“(v) by substituting, in subsection (b)(1)(B)(ii), the phrase ‘deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)’ for the phrase ‘determined before any applicable reduction under section 1127(a)’; and

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

“(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

“(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

“(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

“(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the date of the enactment of the Social Security Program Protection Act of 2003, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$10 shall be rounded to the next lowest multiple of \$10, but in no case less than \$75.

“(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

“(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

“(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

“(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 3 years after the date of the enactment of this Act.

(c) STUDY REGARDING FEE-WITHHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

(i) their training, qualifications, and competency.

(ii) the type and quality of services provided, and

(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2004”; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.”

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.)” and inserting “(42 U.S.C. 401 et seq.)” and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.”

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human

Services, from funds available for benefits under such title II or XVIII.”

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if

included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) **IN GENERAL.**—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) **IN GENERAL.**—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking “or (1)(E)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”;

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

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife.

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity.

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in

which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security).

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”

(b) **WIDOWERS.**—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”;

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

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband.

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity.

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security).

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

“(E) the individual married the surviving husband within 60 days after the prior husband’s death.”

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking “clause (5) of subsection (c) or clause (5) of subsection (g)” and inserting “clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking “to taxes or contributions for similar purposes under” and inserting “exclusively to the laws applicable to”.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky,” after “Illinois.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

“Compensation, Expenses, and Per Diem

“(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which the member is engaged in performing a function of the Board. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **WIFE’S INSURANCE BENEFITS.**—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking “if, on the last day she was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day she was employed by such entity and ending with such last day”.

(b) **HUSBAND’S INSURANCE BENEFITS.**—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking “if, on the last day he was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day he was employed by such entity and ending with such last day”.

(c) **WIDOW’S INSURANCE BENEFITS.**—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking “if, on the last day she was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day she was employed by such entity and ending with such last day”.

(d) **WIDOWER’S INSURANCE BENEFITS.**—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking “if, on the last day he was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day he was employed by such entity and ending with such last day”.

(e) **MOTHER’S AND FATHER’S INSURANCE BENEFITS.**—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking “if, on the last day the individual was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day the individual was employed by such entity and ending with such last day”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)—

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted “employment” as defined in section

210 of such Act, and all such service subsequently performed by such individual has constituted such "employment".

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting ", but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "removed";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

(5) in paragraph (3)—

(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVID-

UALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions".

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of H.R. 743, as amended, is as follows:

H.R. 743

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

Sec. 205. Refusal to recognize certain individuals as claimant representatives.

Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES
Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2)."

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

"(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) For the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (1) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification."

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (1) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (1))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (1)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following new subparagraph:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9)) of this subsection or section 1631(a)(2)(I); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the

“(E) such person is a person described in section 804(a)(2).”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(I) in clause (ii)—
(A) by striking “and” at the end of subclause (II);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and”

(2) in clause (iii)(I)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI)”; and

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI)”;

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

“(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is a person described in section 1611(e)(4)(A).”

(4) by adding at the end the following new clause:

“(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—
“(I) such person is described in section 1611(e)(4)(A),
“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and
“(III) the location or apprehension of such person is within the officer’s official duties.”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Secretary” and inserting the following:
“A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner.”

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10)”;
(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10)”; and
(4) by inserting after paragraph (6) the following new paragraph:
“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.
“(B) The total of the amount certified for payment to such individual or such individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Secretary” and inserting the following:
“A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner.”

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:
“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in

“(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:
“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.
“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 107. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED AMOUNTS.—

(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:
“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.
“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 108. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:
“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in

“(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:
“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.
“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 109. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:
“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in

“(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:
“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.
“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 110. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to."

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking "who" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to."

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section."

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(iii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary—

"(I) is described in clause (iv) or (v) of paragraph (1)(A); and

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties."

(b) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first

day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.**—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

“(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

“(i) explains that the product or service is available free of charge from the Social Security Administration, and

“(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

“(B) Subparagraph (A) shall not apply to any offer—

“(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

“(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.”; and

(2) in the heading, by striking “PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE” and inserting “PROHIBITIONS RELATING TO REFERENCES”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: “Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.”.

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

“SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or

impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term ‘threats of force’ means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.”.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) **IN GENERAL.**—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,”; by striking “or Medicaid,” and inserting “Medicaid,” “Death Benefits Update,” “Federal Benefit Information,” “Funeral Expenses,” or “Final Supplemental Plan,”; and by inserting “CMS,” after “HCFA,”;

(2) in subparagraph (B), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” each place it appears; and

(3) in the matter following subparagraph (B), by striking “the Health Care Financing Administration,” each place it appears and inserting “the Centers for Medicare & Medicaid Services.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) **IN GENERAL.**—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

“(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

“(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

“(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

“(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) **AMENDMENTS TO TITLE II.**—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”.

(b) **AMENDMENTS TO TITLE VIII.**—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking “(i) RESTITUTION.—In any case where” and inserting the following:

“(i) RESTITUTION.—

“(1) **IN GENERAL.**—In any case where”; and

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

“(2) **COURT ORDER FOR RESTITUTION.**—

“(A) **IN GENERAL.**—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(B) **RELATED PROVISIONS.**—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

“(C) **STATED REASONS FOR NOT ORDERING RESTITUTION.**—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.”.

(c) **AMENDMENTS TO TITLE XVI.**—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”.

(d) **SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.**—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

“(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available

to defray expenses incurred in carrying out titles II, VIII, and XVI.

“(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting “, except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”; and

(2) by adding at the end the following new sentence: “In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking “section 206(a)” and inserting “section 206”; and

(B) by striking “(other than paragraph (4) thereof)” and inserting “(other than subsections (a)(4) and (d) thereof)”; and

(C) by striking “paragraph (2) thereof” and inserting “such section”;

(2) in subparagraph (A)(i), by striking “in subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)”, and by striking “and” at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

“(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A) or the requirements of due process of law’ for the phrase ‘subsection (g) or (h) of section 223’;

“(iii) by substituting, in subsection (a)(2)(C)(i), the phrase ‘under title II’ for the phrase ‘under title XVI’;

“(iv) by substituting, in subsection (b)(1)(A), the phrase ‘pay the amount of such fee’ for the phrase ‘certify the amount of such fee for payment’ and by striking, in subsection (b)(1)(A), the phrase ‘or certified for payment’; and

“(v) by substituting, in subsection (b)(1)(B)(ii), the phrase ‘deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)’ for the phrase ‘determined before any applicable reduction under section 1127(a)’; and

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

“(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

“(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

“(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant’s past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

“(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

“(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant’s past-due benefits.

“(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

“(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

“(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations

Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

(c) STUDY REGARDING FEE-WITHHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

(i) their training, qualifications, and competency,

(ii) the type and quality of services provided, and

(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General’s study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2004”; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.”

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42

U.S.C. 401 et seq.)," and inserting "(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act."

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(f) **EXPENDITURES.**—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII."

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) **IN GENERAL.**—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

"(2) **DISABLED BENEFICIARY.**—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) **DEFINITION OF DISABLED BENEFICIARY.**—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

"(2) **DISABLED BENEFICIARY.**—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) **ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.**—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **IN GENERAL.**—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) **IN GENERAL.**—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking "and a transcript" and inserting "and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript".

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) **IN GENERAL.**—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking "or (1)(E)".

(b) **EFFECTIVE DATE.**—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1) (A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2) (A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "she was married";

(4) by inserting "(1)" after "(c)"; and

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

"(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving wife,

"(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

"(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior wife continued to remain institutionalized up to the time of her death, and

"(E) the individual married the surviving wife within 60 days after the prior wife's death."

(b) **WIDOWERS.**—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "he was married";

(4) by inserting "(1)" after "(g)"; and

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

"(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving husband,

"(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

"(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death."

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky," after "Illinois,".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **WIFE'S INSURANCE BENEFITS.**—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with" .

(b) **HUSBAND'S INSURANCE BENEFITS.**—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with" .

(c) **WIDOW'S INSURANCE BENEFITS.**—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with" .

(d) **WIDOWER'S INSURANCE BENEFITS.**—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with" .

(e) **MOTHER'S AND FATHER'S INSURANCE BENEFITS.**—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with" .

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)—

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted "employment" as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such "employment" .

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner" .

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) **IN GENERAL.**—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting "; but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) **AMENDMENT TO INTERNAL REVENUE CODE.**—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit" .

(b) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit" .

(c) **CONFORMING AMENDMENT.**—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer" .

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) **CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.**—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "removed";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

(5) in paragraph (3)—

(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

(6) in the heading, by striking "Deportation" and inserting "Removal" .

(b) **CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)" .

(c) **ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.**—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis" .

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) **SOCIAL SECURITY ACT AMENDMENT.**—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;" .

(b) **INTERNAL REVENUE CODE OF 1986 AMENDMENT.**—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and" .

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in House Report 108-54, if offered by the gentleman from Texas (Mr. GREEN) or his designee, which shall be considered read, and shall be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 30 minutes of debate on the bill, as amended.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

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

This afternoon I am pleased to present to the House for its consideration the Social Security Protection Act of 2003, which is bipartisan legislation that fights fraud and abuse in Social Security programs.

First, this bill protects nearly 8 million beneficiaries who cannot manage their own affairs and rely on representative payees appointed by the Social Security Administration. It does this by raising payee standards and by imposing stricter penalties on those who mismanage the benefits they are entrusted to administer.

Second, this bill denies Social Security benefits to fugitive felons and probation and parole violators. Third, the Protection Act provides tools to further safeguard Social Security programs including new civil monetary penalties.

Finally, this bill helps people with disabilities by giving greater access to legal representation when applying for benefits by improving work incentive programs and by expanding eligibility for the Work Opportunity Tax Credit to encourage more employers to hire individuals with disabilities.

Despite the fact that a majority of the Members voted to pass this bill last month, the needed two-thirds approval

required under suspension of the rules was not achieved. That is because special interest groups betrayed Social Security and America's seniors to appease the few who believe they could get special treatment and be allowed to exploit an unintended loophole that presently exists in the law. These groups misinformed both public and the Congress by falsely claiming that teachers and other public servants who pay into a public employee pension plan instead of Social Security are being singled out for unfair treatment. According to the General Accounting Office and the Social Security Administration, these claims are false.

In fact, government workers who do not pay Social Security taxes receive higher spouse or widow benefits than workers who do, given equal retirement benefits from work. By taking advantage of the loophole, a select group of public employees receives full Social Security spouse and widow benefits that no other working spouse in America receives, including other teachers who pay into Social Security for their entire career.

I want to share this example provided by the Social Security Administration because it shows so well that assertions of targeting public servants for unfair reduction in spousal benefits are just simply incorrect.

As this placard will show, we are comparing two working couples, the Bakers and the Smiths. They have equal retirement benefits from their work. In both cases the husband receives a Social Security work benefit of \$1,200 per month, and the wife receives \$300 per month based on her work. They are equal in every way except that Mrs. Baker paid Social Security taxes and receives her benefits from Social Security, but Mrs. Smith paid into a public pension plan instead of Social Security and receives her benefits from that plan.

Both Mrs. Baker's and Mrs. Smith's spouse benefits are reduced. Mrs. Baker's spouse benefits of \$600, which is one half of her husband's benefit amount, is reduced \$1 for every dollar of her Social Security benefit, providing her with a \$300 spouse benefit. Mrs. Smith's spouse benefit, also \$600, is reduced \$2 for \$3 by her public pension benefit, providing her with a \$400 spouse benefit.

The end result, Mrs. Smith's benefit is \$100 higher than Mrs. Baker's, even though Mrs. Baker paid her whole career into Social Security. Clearly, Mrs. Smith is not being discriminated against because she paid into a public pension plan instead of Social Security.

Mrs. Smith has a twin sister, Mrs. Jones, who is also a teacher; but Mrs. Jones was a teacher in Texas who switched to a school cafeteria job on the last day and paid Social Security taxes in for that last day. Mrs. Jones has an advantage over every other working spouse in America. She receives both her worker's benefit and

full spousal benefit. As a result her spousal benefit would be \$300 higher than Mrs. Baker's and \$200 higher than her twin's. Clearly, for someone who worked 1 day under Social Security, that is just plain unfair.

Every Member of Congress deeply appreciates the valuable contribution of teachers and public servants and all workers, whether they be in Texas, Georgia, Florida, or New York. However, no single group of workers should have an unfair advantage over workers in other school districts, in other pension systems, or all across this Nation.

We absolutely need a full discussion of all Social Security provisions affecting public employees, which is why the Subcommittee on Social Security will have a hearing on these issues and legislative opportunities in the coming weeks. While we want to make Social Security fair for all workers, we must take care not to worsen Social Security's already bleak fiscal picture or undermine the principle of Social Security as an earned benefit. It is an earned benefit. That would negatively affect both government workers and all Americans who depend on Social Security.

This bipartisan bill does the right thing and has the support of many organizations. It was developed using recommendations from and in cooperation with the Social Security Administration and the Social Security Inspector General. It is also supported by the AARP, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, the National Organization of Social Security Claimants' Representatives, and numerous other national and local law enforcement agencies and organizations.

We should protect senior citizens from unscrupulous representative payees skimming off of the top. We should prevent fugitive felons and probation or parole violators from using Social Security dollars to finance their illegal activity. We should pass H.R. 743 to stop this fraud and abuse in Social Security and in the process save the taxpayers \$655 million over the next 10 years.

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

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

Mr. Speaker, I would like to commend my colleague from the State of Florida (Mr. SHAW), the Chair of the Subcommittee on Social Security of the Committee on Ways and Means. We entered into a bipartisan discussion, and we have a bipartisan bill at this time.

The gentleman mentioned the Inspector General of the Social Security Administration. The Social Security Administration and the beneficiary community all came together last year to put this piece of legislation together. It

was essentially the same bill that passed last year, and just 2 weeks ago it came again before the House Committee on Ways and Means and passed on a 35 in favor of to two against vote count. So this is a good bill. I hope we have final passage in favor of this piece of legislation.

I might just very briefly go over the points of the legislation. One, it deals with representative payees; and basically what this means is that when we have a person who is perhaps mentally disabled, a minor, or somebody who is a frail elderly, they may not be able to collect the benefits themselves or know how to handle their benefit, Social Security benefits, that is. So we have a representative payee that will take the money and make sure that proper accounting of the money is taken care of. Essentially in some cases we have had representative payees where they have actually absconded with the money. This would tighten up the laws on representative payees and, secondly, would make sure that beneficiaries are held harmless and receive the full benefits even when the representative payee takes the money from them. It also would provide a greater legal representation for SSDI recipients, those people that are seeking disability benefits under Social Security, by providing for greater legal representation by changing some of the requirements for lawyers under the Social Security Administration Act.

Lastly, it would deny benefits to fugitive felons. Right now under the law, through the quirk in the law, unfortunately, fugitive felons are able to receive Social Security benefits, and this would deny those benefits to fugitive felons.

There are a number of other technical provisions in the legislation. One area I might just spend a few moments on is the one that my colleague from Florida talked about, and that is the government pension offset issue. As the Members know, this legislation was passed in 1976. It did not take place until the mid-1980s. It was not fully put in place until the 1980s. It was basically to take care of the disparity where one of the spouses has two employments over a period of their lifetime of work, one in the local or State government and one in the private sector. So one would then be eligible for both Social Security benefits and also eligible at the same time for a government pension.

Under the law that currently is in place, a surviving widow or widower in this circumstance would have a reduction in their benefit level, depending upon the size of their pension. It was a law to try to correct an inequity. Unfortunately, the government pension offset has in some cases been fair but in many case has been unfair. One, many of the recipients do not know until actually their spouse dies that they are subject to that rule, in which case all of a sudden their lives have become totally disruptive. In fact, we

have calculated, and studies have shown this, that when one spouse dies, it still requires 80 percent of the former income that the couple had in order to live comfortably, and this in many cases drops that income level down to 30 or 40 percent of what they received when they were both alive. So there is a problem with this piece of legislation.

What the gentleman from Florida (Mr. SHAW) and I have attempted to do was strengthen the potential loopholes that some call it loopholes and some say it is only a way to make sure their benefits are collected properly.

The gentleman from Florida (Mr. SHAW) has indicated that he intends to hold hearings on the government pension offset issue, and we really appreciate that because I believe that some action should be taken in this Congress on that issue.

□ 1230

Obviously, we cannot reinstate full benefits, but perhaps there is some way we can at least help these recipients that are subject to this rule so that they will be able to continue on when one of the spouses passes away.

It is, however, a situation now where some of my colleagues feel that they have a problem with this particular provision. This provision was not in the bill last year to close this provision on the government pension offset; it was added to the bill in this Congress, and many of my colleagues have questions about it.

It would have been my hope that we would have dealt with this issue and the larger issue of trying to deal with the government pension offset, because in this situation it would put pressure on all of us to try to deal with this comprehensively. But we do have it before us at this time, and as many of us know, the gentleman from Texas (Mr. GREEN) will have an amendment in which he will move to strike that one provision out of this legislation.

I intend to support his motion to strike this by way of an amendment but, at the same time I would hope that my colleagues on both sides of the aisle would support the final passage of this legislation, because it is a good bill and certainly we do believe that the other provisions of this legislation must move forward.

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

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume. Very, very briefly, what the gentleman from California said about people receiving bad information from the Social Security Administration is absolutely correct, and we are working on that. This came out at the hearing that we had, and this is something that our committee will be addressing.

Now, the reason that the correction, as far as the unfair benefits being paid out to people who never really paid into Social Security more than one day of their working life, that information

did not come out from the General Accounting Office until after we passed our bill last June.

The Democrat-controlled Senate, however, did have the benefit of the General Accounting Office study when they passed their bill, and they passed it by unanimous consent and they attached this provision to it.

This is not a partisan issue. I understand the problems within certain States and those are only two States, by the way, Texas and Georgia. However, for the rest of this country, it is looking at Georgia and Texas as an unfair abuse of the Social Security system because of the inartful drawing of that one provision. This is what we are trying to correct here this afternoon.

Mr. Speaker, I would say to the gentleman from California (Mr. MATSUI) that at this particular time I do not expect to use all of our time on general debate. We have already been through this on suspension. I would invite the gentleman to put a couple of speakers up at this time.

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

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI), our ranking member on the Subcommittee on Social Security, for yielding me this time.

One thing I do agree with the chairman of the Subcommittee on Social Security about is that we should reform the government pension offset. Instead of talking about technicalities or ways that people have figured a way around it, we ought to look at the whole issue. There has been legislation cosponsored by the majority of this House for 3 years, but we have not had a hearing yet on dealing with that. That is what is frustrating.

So instead of dealing with the big issue, they are going to say, okay, for those teachers or firefighters or police officers in Texas or Georgia or whatever other States, they are going to punish those because they found a way under current law to be able to receive their widows' benefits. We are talking about widows' benefits. I do not know about the GAO study or whatever they wanted to talk about, but I do know that we are talking about widows' benefits.

Let me give an example. I have a lady in my own district in the Aldine School District; her husband passed away 10 years ago. She has been receiving his Social Security widow's benefits. She teaches school. She is 73 years old now. After decades of teaching math, she is ready to retire; but if she retires, she will have her widow's benefits under Social Security reduced so substantially that there will almost be nothing left, because of her teacher retirement under the State of Texas.

Now, again, I do not know how the request was made for these GAO studies, but I do know that the facts on the

ground show something different than what my colleagues say. This teacher will have to wait to retire. She would have to go to work for 5 years at a school that has Social Security. Well, she does not have that choice. We have some districts in Texas who do, some who do not. Very few actually do. So she would have to be 78 years old under the bill to be able to continue receiving her widow's benefits. That is wrong. That has been wrong, and it is affecting so many people. That is why we have an amendment, and I thank the Committee on Rules for giving us an opportunity to strike that section.

We have an opportunity through that amendment that will do it. Let us deal with the whole issue, but let us also support the amendment that will leave this provision in here for people who need it.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

I first would like to thank the chairman of the subcommittee, the gentleman from Florida (Mr. SHAW), and also the ranking member, the gentleman from California (Mr. MATSUI) for the work that they have done on this legislation.

Certainly, those of us who have worked on this issue in the past know that we need to deal with these issues for all of those beneficiaries who are out there trying to collect their well-earned Social Security benefits, and also for those who have in the past had difficulties going before the Administration, the Social Security Administration, to get the benefits they deserve. Too, oftentimes we find that some of the folks that are now trying to collect their benefits are old, disabled; in many cases they have become incompetent and cannot do some of these things for themselves, and we have had to find ways to help them move their case along. The "representative payee" program has been a good one. Oftentimes, unfortunately, it has been abused by some, and we are trying to make sure that we forever guarantee that those people who have earned these benefits will get them and not someone who is trying to take advantage of them and claims to be providing advocacy on their behalf.

This is a good bill. H.R. 743 was a bill that was passed last year by this House. I hope it does have a chance to become law this year. I do want to support, and I associate myself with the words of the gentleman from Texas (Mr. GREEN) who spoke. We have an issue with the government pension offset that we must address. We must address it in a way that deals with reform in its entirety.

Many of us have talked about the need to make sure that we strengthen Social Security into the future. There

are a lot of folks, teachers, police officers, firefighters, who find that because they have not been in the system, or if they have been in part of the system for part of the time, the treatment that they will receive is different from those who have been within Social Security or completely outside of Social Security throughout the process. We must deal with this.

To some people who may be watching, it may seem confusing what we are talking about with regard to the government pension offset but, really, the bottom line here is whether you understand GPO and what it stands for or not. What we are trying to do is make sure the system under Social Security is fair for everyone. At this stage there is an issue that has been raised whether or not through this legislation we should be trying to make changes to the GPO.

I would urge all of my colleagues to support the bill, and I also urge my colleagues to support the Green amendment that he has offered today.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, let me take this time to also rise and say that we really need to look at that government pension offset.

The government pension offset unfairly reduces the retirement benefits of public employees who have dedicated their lives to serving their communities and our children. Many of those impacted expected to receive the Social Security benefit that their spouse earned, and we are talking about the majority, almost 90 percent are women that are widowed. So if we look at what we are doing, it is extremely discriminatory towards those women in this category. Often they remain unaware of the offset until they reach retirement age.

Educators are shocked to learn that their decision to enter the education profession, often at considerable financial sacrifice, has caused them to lose benefits they have counted on. The resulting loss of income forces some into poverty and despair. Section 418 of the Social Security Protection Act would close the so-called loophole that allows educators in my home State of Texas to avoid the unjust and harsh impact of the government pension offset by transferring it to the school districts covering Social Security just before they retire.

I would like to add that I am not alone in this. Mr. Speaker, 176 other Members of this House from both sides of the aisle have cosponsored legislation to eliminate this provision. If Members agree that this provision is unfair, I would strongly urge them to vote in favor of this amendment when it comes forward and to vote against this bill.

Once again, I asked the chairman on the Republican side to bring this forward and try to deal with this, because it is extremely important. I know we

have argued about offshore and allowing companies to go offshore and have that loophole for the major companies. But when it is a loophole that applies to women and widows, we need to look at that and see if we can come back, and I would just ask the chairman and appeal to him to bring forward that bill and have an up-or-down vote on the entire bill and allow it to go and impact throughout the counties for these teachers and those individuals and those widows that fall under that category.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BRADY), a member of the Subcommittee on Social Security.

Mr. BRADY of Texas. Mr. Speaker, I support this bill. Let me address my remarks toward the teacher loophole portion of this, because this is what we are discussing the most.

I admire teachers. They are hard-working and incredibly dedicated, as we all know. They are my friends, my sister-in-law, and my next-door neighbor, literally. But keeping open the Texas teacher loophole is terribly unfair.

The loophole practice was first reported to the fraud hotline of Social Security a few years ago. A subsequent investigation by the General Accounting Office followed and, upon their finding that millions of dollars were being siphoned from Social Security, the recommendation was made to Congress to close it. The Senate voted 99 to 0 to close it. But that is why we are here today in the House, to preserve the integrity of Social Security.

This is how the loophole works in Texas, in my State. Teachers in the State retirement system do not pay into Social Security. They have opted out. They pay instead into a substitute retirement plan, the teacher retirement system of Texas. As they near retirement, a Texas teacher resigns from her school district. She pays then another school district that is in Social Security; she pays them between \$200 and \$500 to work for them 1 day, in the cafeteria, doing maintenance, or as a clerical aid. Typically, for that 1 day of work, the teacher contributes \$3 into Social Security and thanks to the loophole, collects nearly \$100,000 in Social Security benefits over her retirement. That is \$3 into Social Security, \$100,000 taken from Social Security. This is terribly unfair. It is unfair to all of the teachers in other States who have no loophole. It is unfair to all the working families in Texas, in America, who have no loophole, including our soldiers overseas; and it is certainly unfair to our elderly who, even if we close the loophole today, will see \$450 million drained from their Social Security Trust Fund.

On the Web site for the Texas Federation of Teachers, their President, John Cole, describes the loophole as a trick and proudly proclaims the gimmick is perfectly legal. The gimmick is perfectly legal.

Well, the gimmick may be legal, but is it right? Virtually no other worker in Texas or America can take a job in a school cafeteria for a day, contribute \$3 into Social Security, and walk away with nearly \$100,000 more than their next-door neighbor. How do we justify this? We would not allow someone to spend 1 day as a substitute teacher and take home \$100,000 in teacher retirement, so why would we allow a teacher to work 1 day in Social Security and take home \$100,000 they did not earn?

Alarming, this 25-year-old obscure loophole just recently discovered is now being institutionalized. In Texas, in my home State, teachers groups regularly hold retirement seminars to instruct their members on how to take advantage of the loophole. Some school districts make as much as \$280,000 a year. That is a quarter of a million dollars a year, charging fees to teachers to work for them for just a day. During the General Accounting Office investigation, they even discovered one Texas university has gone so far as to regularly schedule 5 days per year where university professors can work their last day as a janitor under Social Security, contribute \$3, and receive an extra \$100,000. That is \$100,000 that university professors in other States cannot earn, because they do not have a loophole. And it is \$100,000 the janitor they worked alongside of cannot earn either, because they do not have a loophole.

We are not going to create two classes of citizens in America, those who have loopholes and those who do not. Congress has a clear choice. We can keep open this lucrative loophole for a few that is draining \$450 million from everyone else's Social Security, or we can stand up for our seniors, stand up for our elderly, stand up for the 99 percent of America's workers who are playing by the fair rules.

□ 1245

If we insist on keeping this loophole open, Congress, I think, has forfeited any future credibility to claiming to protect Social Security for our seniors. We will rightly be labeled hypocrites.

What can we do to help our teachers, but still be fair to America? The question has been raised today, and it is a fair one. I am convinced the answer lies in repeal or at least modification of the windfall elimination provision, which docks workers who have earned both the Social Security retirement and the government pension. I think the principle we should be applying is this: if you have earned two pensions, you should receive two pensions.

I have asked the chairman of the Subcommittee on Social Security, the gentleman from Florida (Mr. SHAW), to hold hearings on the windfall provision; and he has agreed. I appreciate his willingness to promptly study the impact and fairness of the windfall provision as it relates to today's retirees.

I think we will find when we do study it, and I am in total agreement with

our teachers on this, that the windfall makes it much more difficult to recruit into teaching the professionals who have had other careers. I think it penalizes educators who held a second job in order to make ends meet. Teachers tell me this would go a long way towards helping them. And best of all, it is not a gimmick. It is fair for them, and it is fair to the rest of America.

I urge the House to pass H.R. 743 without amendment. We must not allow our precious Social Security to be drained away; and most importantly, we cannot create two classes of citizens in America, those who have loopholes and those who do not.

Mr. MATSUI. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

Mr. DOGGETT. What a truly disappointing presentation. Mr. Speaker, this is not about "gimmicks," and it is not really even about Texas teachers. It is about whether this Congress will have on the floor of the House its first ever vote in recent memory on correcting the Government Pension Offset and Windfall Elimination Provision.

Last year, when the constituents of the gentleman from Texas (Mr. BRADY) contacted him about this, he said that these provisions seemed to be "most unfair." He pointed out, quite correctly, that "about 40 percent of the total number of affected beneficiaries are widows and widowers"; that "240,000 affected beneficiaries are women."

I think that we need an opportunity in this Congress to address the Government Pension Offset. When the gentleman from Florida (Mr. SHAW) released the GAO report to which he has referred today, although he and the gentleman from Texas (Mr. BRADY) use terms like "fraud" and attack the professional associations of our teachers in Texas, although he even has the audacity today to invoke our soldiers overseas against our police officers and our firefighters and teachers who deserve a GPO correction, when the gentleman from Florida (Mr. SHAW) introduced the GAO report, he said "The apparently growing use" of what he calls a loophole "is only a symptom of general concern about whether the GPO itself is fair. . . . That is why my plan . . . would reduce the Government Pension Offset." [Aug. 15, 2002 press release]

His plan that he refers to is the one that he and the gentleman from Texas (Mr. BRADY) voted against when we presented it in the Committee on Ways and Means. It is the plan which the Committee on Rules made out of order today. Not Texas teachers, not "gimmicks," not the Texas Federation of Teachers, but police officers in New York City and firefighters in San Francisco, and everyone in between who has been a public servant and who has suffered as a result of this Windfall Elimination Provision, they are the ones that they are standing against today.

"GPO" stands for "Government Pension Offset." It cuts into the retirement security of dedicated public servants, like firefighters, police officers, and teachers who provide us physical and economic security and who need retirement security. "GPO" really means "gouge police officers," and it gouges our teachers and firefighters seeking their well-earned retirement security.

GPO also stands for "good photo opportunity." That is what is involved here. Whether it is police officers, firefighters, or teachers, Members are eager to stand with them and get their picture taken. But when it comes time to vote with them and protect their retirement security, they come up with one excuse after another.

This provision dealing with the self-help provisions that Texas teachers have used, and used in accordance with the letter of the law as written, specifically as written by this Congress, was buried on page 70 of the original bill. They did not even have the courage to bring it up for a vote in the committee at that point, or to wait until our Texas teachers could be here.

An apt analogy to what is happening here today is to find oneself driving down a highway and seeing a senior citizen, a retired teacher, pulled off along the side of the road with a flat tire.

The reaction of most folks is to stop and help. Well, the Congress comes along and it stops to help. It tells the retirees, "You cannot fix this problem yourself," the way our Texas teachers have done, "that is our job." Then, while the senior waits for help, the Congress gets back in the car and drives off, leaving them stranded beside the road.

That is exactly what has happened here as this Republican Congress refuses to address the problem that our Texas teachers and our firefighters are rightly concerned about. Instead, they pick up a tire iron all right, but they are using it on our retirees, not the flat.

The GPO bills introduced and never set for a hearing or never voted on will never provide retirement coverage, only political coverage. When Members pose with public servants for a good photo opportunity, a "GPO," they hope those employees will not notice that: When they smile, the real message is, "I am standing with you, but I am not voting with you."

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

Mr. Speaker, I must say, and be sure that all the Members that are listening to this debate know, this debate has nothing to do with the Government Pension Offset that the last speaker was referring to. That particular provision has a price tag of \$9 billion.

As chairman of the Subcommittee on Social Security, I would like to correct that, or at least go halfway towards correcting that. But part of my job as chairman of this subcommittee is also

to protect the integrity of the Social Security program itself. To go off willy-nilly and start throwing dollars out means the demise of the Social Security system. It will come up short well before 2016, which is the day on which the cash coming into the system is not enough to pay the benefits. We have to be concerned about that.

We are going to have hearings on the Government Pension Offset, and try to find ways to pay for it. But we have to pay for it within the system. To do otherwise would be just plain reckless.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), a distinguished member of the subcommittee.

Mr. HULSHOF. Mr. Speaker, I thank the gentleman for yielding time to me.

The gentleman from Texas (Mr. DOGGETT) who spoke last has regaled us on a number of occasions with some interesting and I would say provocative speeches over the last couple of years about the use and abuse of tax shelters. He has proclaimed himself, Mr. Speaker, the defender of the individual taxpayer against abusive corporate tax shelters. He has often cited Enron when that issue was before Congress. He has railed against the expansion of the business meal deduction, saying taxpayers would subsidize \$400 bottles of wine, a thinly-veiled swipe at the former Speaker.

In the immediate aftermath of September 11, in the committee he went as far as to say that Republicans on the committee were looking for tax cuts for Osama bin Laden. Now he attempts to wrap himself into the fireman's coat and shield himself with the policeman's shield. It is just not so.

Section 418 of the Social Security Protection Act closes a loophole. The General Accounting Office says this about that loophole: "4,819 individuals from Texas and Georgia have performed work in Social Security-covered positions for short periods, and in fact even for a day, in order to offset" or get away from this government pension offset in this exemption.

This is a loophole, a loophole that is being exploited. In 2002, one-fourth of all the public education retirees in the State of Texas took advantage of this loophole.

Let me give an example of an egregious type of way that this is being exploited, and unfortunately, much to the chagrin of other hardworking Social Security payees across the country. School officials reported individuals were taking, or one individual traveled 800 miles one way, 800 miles, a two-day trip, to be employed for a single day, traveling back 800 miles back to that person's home in order to get away from this loophole.

As my friend, the gentleman from Texas (Mr. BRADY), noted, a lot of these school districts are seeing the money flow in because they are charging these retirees, these teachers, a processing fee for their school districts. Ultimately, what it means is that

these workers are seeing their annual pensions increased by the tune of about \$5,000 a year to which they are not entitled.

So we can talk about the government pension offset all we would like, or the windfall elimination provision. Yet what we are trying to do is root out waste, fraud and abuse. The General Accounting Office has told us clearly and unequivocally this is a loophole that is being exploited, and it is time that this Congress acted to close this loophole, because other retirees are the ones that are losing the advantage of their social security.

Mr. MATSUI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to just make a couple of observations, if I may. I appreciate the Chair of the subcommittee on Social Security of the Committee on Ways and Means, his discussion.

I just want to point out, the President had said during the campaign of 2000 that he wanted to reform Social Security. He came up in 2001, December of 2001, with a commission report and three recommendations all dealing with privatization of Social Security. The gentleman himself has come up with a privatization plan. We still have not seen Social Security reform in the committee, nor have we seen it on the floor of the House.

Initially, I was hoping to take care of the GPO under Social Security reform. Obviously, we cannot do it because there is no intention of bringing Social Security reform to the House floor until after the 2004 election, after the President presumably is reelected. So it is unfortunate we have to deal with this issue now.

I also want to say that with respect to the gentleman from Texas (Mr. DOGGETT), he was trying to deal through the whole issue of corporate shelters with things like the Bermuda inversion issue, in which companies in the United States went offshore in order to avoid U.S. taxes, thereby increasing taxes for individual citizens. These are the things that he has been working on.

Lastly, this is about the government pension offset, to a large extent; it is not about loopholes. The reason I say this, just 3 weeks ago the gentleman voted, the gentleman who just spoke voted in committee on a piece of legislation actually in which we were going to try to give benefits to our young men and women overseas, in the Persian Gulf at this time, by adding little provisions like eliminating taxation on foreigners who actually bet on U.S. gaming and horse races.

These are the kinds of things that are real loopholes. These are the things that are loopholes. These are ordinary citizens who are just trying to deal with their own livelihood when one of their spouses dies.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I am so pleased that the last speaker raised

this issue of corporate loopholes, because it is the same crowd that stood in the Committee on Ways and Means repeatedly and on the floor of this House and has defended corporations that renounce their citizenship and head off for tax havens like Bermuda. They say that this is fine, that this is legal, and that we do not need to do anything about it.

As to the Government Pension Offset and the issue of the alleged "loophole" in Texas, what the gentleman failed to mention is that we offered in committee to close the alleged "loophole" for Texas teachers, but to do it in connection with reforming the GPO problem that they have consistently refused to correct all this time. Fix the two together.

We make them that same offer today. This is not about gimmicks in Texas, it is about people that file bills, as the gentleman from Florida (Mr. SHAW) has done, that they never intend to move through the Congress; file bills they do not even get a hearing on, and say they are on the side of the firefighters, police officers, and teachers while doing nothing for them.

Mr. SHAW. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, again I would say to the gentleman who just spoke, who has self-proclaimed his time here as far as trying to shut down these corporate abusive shelters, in existing law that the Social Security Protection Act attempts to protect is a loophole that is being exploited, a single-day exception where workers attempt to get around this law.

Perhaps if the gentleman's constituents had set up post office boxes in Bermuda, perhaps we would see some righteous indignation in favor of this legislation instead of opposed.

□ 1300

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise to make an argument outside of the scope of this latest controversy, though I will say the sooner this Congress deals with the GPO issue, the better, because it is a very important issue back in my home State of Maine. But I do rise in support of this bill, H.R. 743.

I commend the work of the chairman of the subcommittee, the gentleman from Florida (Mr. SHAW) and the ranking member, the gentleman from California (Mr. MATSUI) for their effort to bring this bill forward.

I want to confine my remarks to one particular section of the bill, section 414. That section will directly benefit one of my constituents, Nancy Wilson of Bremen, Maine. Nancy Wilson has been denied Social Security benefits through a quirk in the law for more than 10 years, and thanks to the efforts

of the Committee on Ways and Means, H.R. 743 will fix that quirk and will enable Nancy Wilson to receive the benefits to which she otherwise would have been entitled.

Since the 105th Congress I have been working to pass legislation that would assist Mrs. Wilson. In both the 105th and 106th Congresses, private legislation passed this House but was not acted on by the other body. Since then the Committee on Ways and Means has graciously worked with me in both the 107th and 108th Congresses to include language similar to my bill, H.R. 249, in the Social Security Protection Act in order to help Mrs. Wilson.

As anyone who has worked with her knows, Nancy Wilson is a tenacious battler. She will not give up. She will not allow her elected representatives to give up until she receives the justice that she feels she deserves and that she does deserve. I hope with the passage of this bill, Nancy's efforts will finally be vindicated.

I urge the swift enactment of this legislation.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH), a distinguished member of the committee.

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

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the subcommittee for yielding me time, and I appreciate and applaud the remarks of my friend from Maine (Mr. ALLEN) across the aisle because it typifies, at long last, we actually had discussion on the bill we are working on this afternoon and the benefits it brings, rather than another convoluted process.

So let us focus on the legislation at hand, H.R. 743. The preceding speaker pointed out how it would directly help one of his constituents.

Mr. Speaker, let me suggest to you that this legislation will help thousands, if not millions, of Social Security recipients because it protects Social Security. First and foremost, we strengthen the ability of this government and the Social Security Administration to deny benefits to fugitive felons and probation or parole violators. We have such a huge system which so many Americans depend on that it is hard to believe, but true, there are actually felons and fugitives who have depended on Social Security and taken money out of the system. That is wrong. That is going to stop.

It deters fraud. It creates new civil monetary penalties for those who would commit fraud against our seniors and against Social Security recipients. It prevents persons from misrepresenting themselves as they provide Social Security-related services. We move to protect what so many Americans depend upon.

And I should also point out that one key group of constituents whom I was

honored to work with, with the Commissioner of the Social Security Administration, came to Arizona, to Tempe, Arizona, to issue our first ticket to work for a disabled member of our society who wanted to emphasize the ability in disability, we broaden and strengthen the ability with ticket to work. We help individuals with disabilities gain access to representation and to get back to work. We expand the eligibility for the work opportunity tax credits. Employers outside of a pre-designated number in the past can take advantage of the work opportunity tax credit. It allows the Social Security Administration to examine alternative methods of encouraging work.

This is a good bill. Pass it on the merits. Support H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from the State of Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting, this is a good bill. I am frankly appalled that we have a situation where we have to fix the question of fugitive felons receiving Federal dollars, and I believe we should fix it. That is the point I rise to make, Mr. Speaker.

Forgive me for talking in a second-level voice, but this could have been a bill that all of us supported. My good friend from Arizona (Mr. HAYWORTH) stood a couple of years ago disagreeing with opposing the government pension offset. What we are trying to do is to fix it to make it work.

We offered, I understand, I am not on the committee but I understand that the gentleman from Connecticut's (Mr. SHAYS) legislation that could have fixed this question that we are concerned with about teachers and police and firefighters was offered in committee and was rejected along a party line vote.

Mr. Speaker, this is legislation that should be supported by all. We should have a 100 percent vote on the Green amendment, which I am supporting, for these teachers and widows that we are talking about. This is a simple amendment because what it does is this amendment works to correct the problem, and that is in 418.

This amendment is important to have. The legislation does nothing to remedy the GPO to make it fair to public servants. This amendment strips this one hidden offensive provision in this otherwise noncontroversial bill that deals with prohibiting a widow to be eligible for a pension based upon State, local, or Federal jobs, that is ridiculous, or requiring them to work an extra 5 years.

Now why, Mr. Speaker, we could not work together to ensure that we had a bipartisan bill. My voice is weak, it is broken, but I could not miss talking about this inequity.

Why are we here fighting about a bill that has some very good elements? Why are we here fighting over the Green amendment? It should be under unanimous consent, because it makes sense for people not just in Texas but in New York. And I think it is important, Mr. Speaker, to say here we go again, dividing unnecessarily along party lines on what is good for America. And frankly, I think we got a whole lot of work to do with our troops in Iraq in terms of benefits that they need and veterans benefits that they need and tax changes that they need. We could do this in a bipartisan way.

So I hope, Mr. Speaker, that we will find a way to unanimously support this Green amendment that will strike this language that puts elderly people back to work, and I hope we will find a way to correct this legislation so we have a bill that will have the support of all Members.

Mr. Speaker, I am saddened to have come to the floor today to speak out yet against H.R. 743. The Social Security Protection Act of 2003. This bill was broken last time it came up on the floor. Many public servants in our districts noticed that. We noticed it was broken and voted the bill down. But, here it is again—and it still has not been fixed. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in the government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to \$5000 if they knowingly provided false or misleading information.

For further protection, representative payees for over 15 individuals would be required to be licensed and bonded, and would be subject to periodic reviews. The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program.

The bill passed unanimously in the House last Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of last year. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as "poison for Texas school employees." That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the "last day rule," an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so till now many teachers have been forced to take advantage of the "last day" loophole. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK MCKEON, and 132 others to do just that.

Instead, the bill before us today closes the loophole. I am usually all for getting rid of loopholes, but now is no time to be "sticking-it" to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, last month I received a call from one woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose \$360 per month in retirement benefits—over \$4000 per year.

Why should she risk it? If H.R. 743 passed today, it won't be only she that loses. It will be our Nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I will vote "no" on H.R. 743 unless the offending provision is taken out, and urge my colleagues to do the same.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes and 10 seconds to the distinguished gentleman from the State of Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise in opposition to H.R. 743 and I wish to express my strong support for the amendment offered by my friend, the gentleman from Texas (Mr. GREEN).

The underlying bill was rejected by the House last month when it was considered under suspension of the rules. Yet it is being brought before us again with the same objectionable provision that will hurt teachers, police officers, firefighters and other State and local workers in Texas and lots of States around the country.

H.R. 743 would compel experienced public servants to quit their jobs prematurely and work in the private sector for 5 years before they retire in order to avoid a reduction in their pension caused by the Social Security offset. We all know that our Nation has a critical shortage of teachers and public safety personnel. This provision would only exacerbate the problem.

That is why I support the Green amendment to strip this offending provision from the bill. Unfortunately, the Committee on Rules has prevented this House from considering a permanent fix to the problems associated with the government pension offset.

My friend, the gentleman from Texas (Mr. DOGGETT), proposed an amendment to the Committee on Rules that would end this policy that forces public employees to offset their State pensions against the Social Security benefits they have earned. But the Committee on Rules refused to allow the Doggett amendment to be considered today. As a result, State and municipal employees throughout the Nation will continue to be hurt by this unfair policy.

At a time when Federal and State budgets for education and public safety are being slashed, this is just one more slap in the face to those teachers and those public safety officers who are working hard to educate our children and protect our communities. We need to let them know that education and security are national priorities and that we value their dedication. I encourage my colleagues to move quickly to bring relief to teachers and other public employees by supporting the Green amendment.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a member of the committee.

Mr. HERGER. Mr. Speaker, I rise in strong support of the Social Security Program Protection Act. I would like to thank the gentleman from Florida (Chairman Shaw) and the other members of the Committee on Ways and Means who have worked tirelessly to improve Social Security programs that provide an important, crucially important, safety net for many of our Nation's neediest disabled and elderly individuals. These changes have been de-

signed to ensure that the right benefits go to the right people, a principle which should guide our efforts on behalf of the taxpayers we serve.

I am especially pleased that the bill before us includes a provision designed to keep convicted fugitive felons from getting Social Security checks. These efforts build upon the criminal welfare provision which I introduced and which were enacted into law more than 3 years ago. By all accounts, these laws have been effective in stopping illegal fraudulent Social Security payments to prisoners. We have also stopped hard-earned taxpayer dollars from being used to subsidize addicts with disability checks. Overall, we have saved taxpayers and beneficiaries literally billions of dollars.

Other provisions in the legislation before us, such as granting the Social Security Administration the tools it needs to weed out waste and fraud, will further protect vulnerable beneficiaries.

Mr. Speaker, this bill passed with overwhelming bipartisan support in the last Congress. I urge my colleagues to join me today in supporting it once again.

Mr. MATSUI. If the Speaker may inquire whether the gentleman from Florida (Mr. SHAW) has any further speakers?

The SPEAKER pro tempore (Mr. LINDER). Does the gentleman from Florida (Mr. SHAW) have any further speakers?

Mr. SHAW. At this particular time I may close, depending on what I hear from the other side.

Mr. MATSUI. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from California (Mr. MATSUI) has 5 minutes remaining. The gentleman from Florida (Mr. SHAW) has 5½ minutes remaining.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from the State of Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I think the debate has been good because it has talked about what the concern is, that we really need to deal with government pension offset.

I know there has been legislation introduced now for a number of years and that there is a commitment to have a hearing on it, but we have a bill right now; the latest legislation, H.R. 594, has at least 50 Republican Members and in a very short time has received almost 200 co-sponsors of it, that would eliminate the controversial government pension offset. And I guess that is what is frustrating because we have so much support to eliminate it or at least, as had been earlier talked about, let us moderate it. Do not punish widows that are public employees, two-thirds. Let us make them only pay one-third. Sure, they only worked a day maybe, but they are not getting it for their work under Social Security.

□ 1315

They are getting it because they were married to their spouse for at

least 10 years and, in some cases, 30 and 40 years; and yet, because they were public schoolteachers, they had to take advantage of that loophole because, otherwise if their husband died before they were 62, they did not receive anything. So they found a way under current law to seek redress, and this bill is going to close that loophole, supposedly.

Again, maybe it should be, if my amendment is adopted. I would like the committee to really bring out a reform during this Congress because, again, we have been waiting now for many years. In fact, my colleague from Arizona (Mr. HAYWORTH), I remember 3 years ago he and I stood at a press conference with lots of Members talking about we need to reform the government pension offset, and that is what ought to be done, but do not punish the States of Georgia or Texas or whatever other jurisdiction said, well, wait a minute, we know it is wrong, we know it is wrong to penalize a widow who teaches school.

For example, a colleague of mine from Texas has a military base, Fort Hood, with a lot of his constituents now in the Persian Gulf. They said we have a program that is called Troops to Teachers. Our armed services pay Social Security so they retire from the military, and yet they are going to go back to teach and they are going to be penalized for the Social Security they earned in the military if they retire in Texas from the teacher retirement system and they do not work for a school district that has Social Security.

The system is wrong, and my colleagues are making it worse by changing it by this bill; and this is what is so bad. My colleagues can show me all of the studies, but I cannot explain those studies to my constituents who are teachers who said you mean to tell me I have been married 30 years to my husband and everything because we are talking about 80 percent of these people are women, and we know nationally the retirement income for women is so much lower than men. We have teachers who have been married all these years, and sure, they are going to take advantage, but that is because they have been married to someone who paid into Social Security for at least 10 years, in some cases 3 or 4 decades.

Mr. MATSUI. Mr. Speaker, I yield myself the balance of my time.

This is a good bill. I want to commend the gentleman from the State of Florida, the Chair of the subcommittee. We put together a bipartisan bill. Obviously with the Social Security Administration, with the beneficiary groups and certainly with the Inspector General's office, and certainly this is a good piece of legislation.

I hope that each of my colleagues, as I, will vote for final passage of this legislation. Obviously, we do have one controversy here, and it is the government pension offset issue; and the gentleman from Florida has indicated he

will address this issue through a hearing of the subcommittee sometime in the near future, I believe after the April recess; and so I look forward to working with him with the idea of perhaps given the time constraints and other problems that we might have that we can really address this issue in a comprehensive way.

I do hope that there will be some way that we can vote in favor of the gentleman from Texas's (Mr. GREEN) amendment when it is offered in about 40, 45 minutes because I think that will keep the pressure on the institution, both bodies and the executive branch of government, to address this issue.

There is no question that many people are caught unaware when one spouse dies that they did not know about the government pension offset. It results in a reduction of their level of income by 40, 50, even in many cases 60 percent, and secondly, we do have to deal with the inequalities of the proposal. There is no question that in some cases it does actually help and it creates inequality in terms of people that have multiple jobs.

On the other hand, it does create some inequality, and as a result of that, we really need to address this issue in a comprehensive way; and given the fact we probably will not deal with Social Security reform in this Congress, it is incumbent on us at least to address this issue and perhaps a few other issues, as well, as long as they are not extremely costly.

Mr. Speaker, I urge a "yes" vote on final passage, a "yes" vote when the gentleman from Texas (Mr. GREEN) offers his amendment.

Mr. Speaker, I yield back the balance of my time.

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

(Mr. SHAW asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SHAW. Mr. Speaker, I place in the RECORD a large number of letters in support from police groups, fire groups, AARP, and a number of other letters.

AARP,

Washington, DC, March 5, 2003.

Hon. CLAY SHAW,

House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SHAW: On behalf of AARP and its 35 million members, I wish to commend you and Representative Matsui for introducing H.R. 743, the "Social Security Program Protection Act of 2003." This comprehensive legislation is important to claimants, beneficiaries and the overall Social Security program.

We are pleased that the legislation would protect beneficiaries against abuses by representative payees. For many years, AARP recruited volunteers as representative payees so that Social Security beneficiaries who needed a representative payee but could not find one would not lose any benefits. These programs were quite successful but were limited in scope.

AARP has had a longstanding interest in curbing deceptive mailings targeted at older Americans. This legislation builds upon prior legislation and could discourage other mailers from scaring older people about their Social Security and Medicare benefits.

The legislation would strengthen the Ticket to Work Act and conduct pilot projects to improve work incentives for those with a disability. These changes would send a strong signal that our society values the contributions of all its citizens.

Thank you again for your leadership in moving H.R. 743 in the House.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE.

Washington, DC, March 10, 2003.

Hon. CLAY SHAW, Chairman,

Hon. ROBERT MATSUI, Ranking Member,
Committee on Ways and Means, Subcommittee
on Social Security, House of Representatives,
Washington, DC.

DEAR CHAIRMAN SHAW AND RANKING MEMBER MATSUI: On behalf of the more than 1 million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I commend you both for introducing H.R. 743, the Social Security Protection Act of 2003. CCAGW supports this important legislation.

Passage of H.R. 743 would fiscally strengthen the Social Security program by reining in the loss of millions flowing away from beneficiaries each year due to waste, fraud and abuse. It strengthens the supervision of individuals and institutions that handle benefit checks belonging to others, bars Social Security payments to fugitives, and would allow federal courts to order an individual who breaks a Social Security-related law to make restitution to the fund.

The members of CCAGW also support your efforts to close the loophole regarding government pension offsets for Social Security benefits. This loophole has allowed thousands of individuals to receive Social Security benefits for previous employment for which they did not pay into the system. The Government Accounting Office (GAO) has recommended eliminating this loophole, estimating that failure to do so will cost the program \$450 million in long-term overpayments.

Enactment of H.R. 743 would boost solvency of the Social Security program and ensure that benefits would go to those who have earned it by instituting strict safeguards for annuitants and the programs on which they depend. This bill will be among those considered for inclusion in CCAGW's 2003 Congressional Ratings.

Sincerely,

THOMAS SCHATZ,
President.

NATIONAL CONFERENCE OF STATE SOCIAL SECURITY ADMINISTRATORS POSITION STATEMENT

Overview: This bill is intended to make changes to various sections of the Federal Social Security Act. One of the many changes provides for an extended period of employment in a position covered by Social Security in order to be eligible for the Government Pension Offset (GPO) exemption.

Current law: The current Social Security Act allows any employee to be exempt from the GPO if, on their last day of employment, they are in a covered position. While this little noticed provision has been in the law for many years it has recently become the subject of discussion and possible abuse. It has been noted that a number of employees who have worked in a non-covered position during their normal working career have switched over to a position covered by Social Security on their last day of employment in order to circumvent the GPO impact on their benefits.

This perceived abuse can be significantly reduced by the passage of this legislation. In addition, this change for the state and local government employees, brings the criteria into synchronization with the Federal employee requirements.

Position: The National Conference of State Social Security Administrators supports the changes proposed in section 418 of H.R. 743.

Contact: If you have any questions or comments regarding this Position Statement or other activities of the NCSSSA, please contact either Nicholas C. Merrill, Jr. (IL) Legislative Committee Chairman, at (217) 785-2340, or Steve Delaney, (OR) President, at (503) 603-7694.

NCSSSA background: Since its formation in 1952, the NCSSSA has worked closely with SSA and IRS to address social security and medicare coverage and employment tax issues raised by state and local government employers and state social security administrators throughout the United States. The NCSSSA works with federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of Federal tax policy, and resolution of problems arising at the state and local level.

NATIONAL COUNCIL OF SOCIAL SECURITY

MANAGEMENT ASSOCIATIONS, INC.,

Hackensack, NJ, March 31, 2003.

Hon. CLAY SHAW,

Chairman, Social Security Subcommittee, House Ways and Means Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHAW: We appreciate that your efforts as Chairman of the Social Security Subcommittee have brought to light many issues that affect the stability and solvency of the Social Security program. Your continued attention to detail ensures that SSA recipients will be better served in the future.

One such issue is a loophole that currently exists in the law regarding the Government Pension Offset. The National Council of Social Security Management Associations (NCSSMA) favors the provision in H.R. 743, "The Social Security Protection Act of 2003," that closes this loophole that affects the Government Pension Offset.

As you are aware, legislation was enacted in 1977 creating a Government Pension Offset (GPO) to equalize the treatment of workers covered by Social Security and those with noncovered government pensions. The GPO prevents workers from receiving a full spousal benefit on top of a pension earned from noncovered government employment. The law, however, provides an exemption to the GPO if an individual's last day of state/local employment is in a job that is covered by both Social Security and the state/local government's pension system. That provision provides a loophole that needs to be closed.

The Government Accounting Office found last year that 3,500 teachers in Texas switched to clerical or janitorial positions covered by Social Security on the last day of their employment in order to avoid the GPO. The GAO estimates that use of the loophole thus far could cost Social Security \$450 million and even more if use of the loophole grows. Not closing this loophole would be fiscally irresponsible and unfair to other citizens who comply with the intent of the law. Therefore we favor the provision in H.R. 743 designed to rectify this problem.

Sincerely,

ANTHONY PEZZA,
President.

CONSORTIUM FOR
CITIZENS WITH DISABILITIES,
Washington, DC, March 4, 2003.

Hon. E. CLAY SHAW,

Hon. ROBERT MATSUI,

House of Representatives, Washington, DC.

DEAR REPRESENTATIVES SHAW AND MATSUI:

On behalf of the Consortium for Citizens with Disabilities Task Forces on Social Security and Work Incentives Implementation, we are writing to express our support for the speedy passage of H.R. 743, the Social Security Protection Act of 2003.

We appreciate the hard work and the perseverance of the Subcommittee on Social Security in addressing this important legislation over the course of two Congresses and again in this 108th Congress. Your leadership and commitment last year resulted in the passage of the Social Security Program Protection Act of 2002, H.R. 4070, in the House by a vote of 425 to 0. Clearly, the issues addressed in the bipartisan Social Security Protection Act are important to people with disabilities who must depend on the Title II and Title XVI disability programs. We urge House passage of H.R. 743.

H.R. 743 is a very important bill for people with disabilities. We believe that it should be enacted as soon as possible. People with disabilities need the protections of the representative payee provisions. People with disabilities who are attempting to work need the statutory changes to the Ticket to Work program in order to better utilize the intended work incentive provisions enacted in 1999. In addition, beneficiaries with disabilities need the provision requiring the Social Security Administration to issue written receipts, and to implement a centralized computer file record, whenever beneficiaries report earnings or a change in work status. These important provisions have not been controversial—in fact, they have enjoyed significant bipartisan support—and have simply fallen prey to the legislative process over the last two Congresses. We appreciate your interest in moving H.R. 743 quickly so that these important protections can become available to beneficiaries as soon as possible.

One of the most important sections of H.R. 743 for people with disabilities is the section dealing with improved protections for beneficiaries who need representative payees. Approximately 6 million Social Security and Supplemental Security Income beneficiaries have representative payees, often family members or friends, who receive the benefits on their behalf and have a responsibility to manage the benefits on behalf of the beneficiaries.

H.R. 743 includes important provisions strengthening SSA's ability to address abuses by representative payees. The provisions would: require non-governmental fee-for-services organizational representative payees to be bonded and licensed under state or local law; provide that when an organization has been found to have misused an individual's benefits, the organization would not qualify for the fee; allow SSA to re-issue benefits to beneficiaries whose funds had been misused; allow SSA to treat misused benefits as "overpayments" to the representative payee, thereby triggering SSA's authority to recover the money through tax refund offsets, referral to collection agencies, notifying credit bureaus, and offset of any future federal benefits/payments; and require monitoring of representative payees, including monitoring of organizations over a certain size and government agencies serving as representative payees.

In addition, H.R. 743 would extend the direct payment of attorneys fees in SSI cases on a voluntary basis. Advocates believe that such a program will make legal representation more accessible for people with disabili-

ties who need assistance in handling their cases as they move through the extremely complex disability determination and appeals systems.

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security and Work Incentives Implementation Task Forces focus on disability policy issues in the Title XVI Supplemental Security Income program and the Title II disability programs. We look forward to the House passage and final enactment of H.R. 743.

Sincerely,

Co-chairs, Social Security and Work Incentives Implementation Task Forces:
Marty Ford, The Arc and UCP Public Policy Collaboration; Ethel Zelenske, National Organization of Social Security Claimants' Representatives; Cheryl Bates-Harris, National Association of Protection and Advocacy Systems; Susan Prokop, Paralyzed Veterans of America; Melanie Brunson, American Council of the Blind; Paul Seifert, International Association of Psychosocial Rehabilitation Services.

NATIONAL ORGANIZATION OF SOCIAL
SECURITY CLAIMANTS'
REPRESENTATIVES,

Midland Park, NJ, February 26, 2003.

Hon. E. CLAY SHAW, Jr.,

Subcommittee on Social Security, Committee on Ways and Means, House of Representatives,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Organization of Social Security Claimants' Representatives ("NOSSCR"), we offer our support for the important goals of H.R. 743, the Social Security Protection Act of 2003.

Specifically, we support the protections in Title I for beneficiaries who have representative payees and support provisions which, for the first time, require the Social Security Administration to issue receipts to beneficiaries when they report earnings or a change in work status. Additionally, title III of this measure contains two important provisions NOSSCR strongly supports. These provisions are designed to ensure access to legal representation for those Social Security and Supplemental Security Income ("SSI") claimants who seek to be represented as they pursue their claims and appeals. First, the bill limits the assessment of the user fee to \$75.00 or 6.3 percent, whichever is lower. Second, the bill extends the current Title II fee withholding and direct payment procedure to the Title XVI program, giving SSI claimants the same access to representation as is currently available to Social Security disability claimants. Together, these provisions make changes that will help claimants obtain representation as they navigate what can often be a confusing and difficult process.

We are dismayed, however, by the addition of a sunset provision for the extension of withholding to the Title XVI program. Enactment of an attorneys' fee payment system with an "end date" will undercut its very purpose: to enable more SSI claimants seeking a lawyer to hire one. The sunset provision shortchanges SSI claimants who desire legal representation. We are not aware of any policy justification for this provision, and we urge its deletion from the bill.

NOSSCR appreciates your continued interest in improving the Social Security and SSI programs and ensuring the best possible service delivery. We look forward to your

Subcommittee's consideration of this legislation.

Very truly yours,

NANCY G. SHOR,
Executive Director.

ASSOCIATION OF
ADMINISTRATIVE LAW JUDGES,
Milwaukee, WI, February 28, 2003.

Hon. CLAY SHAW, Jr.,

Chairperson, Subcommittee on Social Security,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRPERSON SHAW: I write on behalf of the Association Law Judges. We represent about 1000 administrative law judges in the Social Security Administration and in the Department of Health and Human Services which comprise about 80% of the administrative law judges in the Federal government. I am writing in regard to H.R. 743, a bill to provide additional safeguards for Social Security and Supplement Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

We support the goals of H.R. 743. In particular, we support the attorney fee payment system improvements provided for in the bill, but we believe that the legislation should not include any "sunset" provisions. We further support the provisions in the legislation for the elimination of transcript requirements in remand cases fully favorable to the claimant.

We also favor the provision in the legislation that directs the Social Security Administration to issue receipts to acknowledge submissions of earnings by beneficiaries.

Thank you for your work on this important legislation.

Sincerely,

RONALD G. BERNOSKI,
President.

Mr. Speaker, we are going to go into the amendment process in just a moment. I think it is important for the House to realize here that what we are talking about in all this debate has been on a very narrow point that really only affects basically one State, possibly two, and that is a question of where their particular pension law is written in such a way that it creates a loophole and gives their teachers, their firefighters, an advantage over the rest of the country.

This is not about teachers. It is not about widows. It is not about firefighters. It is about basic fairness.

So I would hope that in the final vote I think we will get a big vote in favor of the bill itself. I have no doubt about it, but I would urge the Members to defeat the amendment that is going to be offered by the gentleman from Texas (Mr. GREEN) that would preserve this loophole for these few people. It is just simply not fair.

Mr. REYES. Mr. Speaker, I rise today in support of the Green Substitute amendment to H.R. 743. This amendment would result in removing Section 418 from the bill. This section negatively affects teachers and other public servants in my state of Texas. This is unacceptable. Our hardworking teachers deserve more.

I know full well the effort and hard work that teachers dedicate to their students. My wife was a teacher for many years and my daughter, who just completed her doctorate degree in education, is currently an administrator at a local school district. I believe that teaching is

one of the most honorable professions. I credit our teachers with laying the foundation for the future of our country and the world. In addition to teaching children the basic skills they need, teachers are an important guiding force for our children. After parents, they are one of the greatest influences on children. We therefore need to make sure we have well-qualified and well-paid teachers educating students.

As you know Mr. Speaker, passage of this bill before us would reduce the spousal Social Security benefits for countless teachers. H.R. 743 also affects school support personnel, police officers, firefighters, and other public servants. At a time when multi-billion dollar tax breaks are being given to our country's top income earners, our teachers and other public servants would be penalized through this bill. These are people we should be protecting and rewarding. We should not make them pay for the tax cuts we give those who are more fortunate. For this reason I cannot support the original version of this bill.

Mr. Speaker, I have co-sponsored H.R. 594, a bill introduced by my colleague, Mr. MCKEON, that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits. This bill would be a more appropriate permanent solution to the unfair treatment of teachers' social security benefits. However, until we can pass that bill, I strongly urge my colleagues to support the Green Substitute, oppose H.R. 743 unless it is amended, and continue to support our teachers. I yield back the balance of my time.

Mr. PAUL. Mr. Speaker, I rise in reluctant opposition to HR 743, the Social Security Protection Act. While this bill contains many provisions worthy of support, it also removes the only means by which many widowed Texas public school teachers can receive the same spousal social security benefits as every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the The Government Pension Offset even applies if the public employee in question worked all the quarters necessary to qualify for full social security benefits either before or after working in the public school system!

The effect of the Government Pension Offset is to punish people for teaching in public schools! However, current law provides widowed Texas public school teachers a means of collecting the full social security spousal benefits. Unfortunately, this bill removes that option from Texas teachers. Since I believe the Congress should repeal the Government Pension Offset by passing HR 524, which repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full social security benefits, I must oppose this bill.

Instead of punishing public school teachers, Congress should be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (HR 613) which provides every teacher with a \$1,000 tax credit, as well as my Professional Educators Tax Credit act (HR 614), which provides a \$1,000 tax credit to counselors, librarians, and all school personnel. Congress should also act to protect the integrity of the Social Security Trust Fund by passing my Social Security Preservation Act (HR 219), which ensures that

Social Security monies are not spent on other programs. Congress should also pass my Social Security for American Citizens Only Act (HR 489), which ensures that non-citizens who have not worked the required number of quarters and illegal immigrants do not receive social security benefits.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of H.R. 743. First, I would like to acknowledge Mr. MATSUI for working diligently on the Social Security Act of 2003.

As we all know, H.R. 743 will extend the direct fee withholding program payment to attorneys who represent supplemental security income claimants, thus encouraging more attorneys to represent them.

It is vital that we pass legislation that addresses the major concerns of our seniors, the blind, and the disabled.

This legislation imposes greater standards on individuals and organizations that serve as representative payees for social security and supplemental security income recipients; this legislation will make non-governmental representative payees liable for "misused" funds and subject them to civil monetary penalties; H.R. 743 will reduce the fee assessments from the Social Security Administration that charges attorneys for fee withholding.

Overall, the Social Security Act of 2003 will be beneficial to recipients and those who serve as representatives for recipients.

Furthermore, H.R. 743 will make a number of technical changes designed to reduce social security fraud and abuse.

Mr. Speaker, I will close my statement for the RECORD with supporting H.R. 743.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). All time having been yielded back, it is now in order to consider the amendment in the nature of a substitute printed in House Report 108-54.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREEN OF TEXAS

Mr. GREEN of Texas. Mr. Chairman, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GREEN of Texas:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

Sec. 205. Refusal to recognize certain individuals as claimant representatives.

Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Subtitle C—Technical Amendments
- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES
Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the

limitations of subsection (1)(2)."

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

"(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(i)."

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification."

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following new subparagraph:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) **PERIODIC ONSITE REVIEW.**—

(1) **TITLE II AMENDMENT.**—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

“(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

“(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

“(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

“(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(i) the number of such reviews;

“(ii) the results of such reviews;

“(iii) the number of cases in which the representative payee was changed and why;

“(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(v) the number of cases discovered in which there was a misuse of funds;

“(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

“(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(viii) such other information as the Commissioner deems appropriate.”

(2) **TITLE VIII AMENDMENT.**—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

“(k) **PERIODIC ONSITE REVIEW.**—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

“(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

“(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

“(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(A) the number of such reviews;

“(B) the results of such reviews;

“(C) the number of cases in which the representative payee was changed and why;

“(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(E) the number of cases discovered in which there was a misuse of funds;

“(F) how any such cases of misuse of funds were dealt with by the Commissioner;

“(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(H) such other information as the Commissioner deems appropriate.”

(3) **TITLE XVI AMENDMENT.**—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

“(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

“(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

“(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

“(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

“(I) the number of the reviews;

“(II) the results of such reviews;

“(III) the number of cases in which the representative payee was changed and why;

“(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(V) the number of cases discovered in which there was a misuse of funds;

“(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

“(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(VIII) such other information as the Commissioner deems appropriate.”

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) **TITLE II AMENDMENTS.**—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(1)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.

“(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and”;

(2) in subparagraph (B), by adding at the end the following new clause:

“(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 202(x)(1)(A)(iv).

“(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

“(III) the location or apprehension of such person is within the officer's official duties.”;

(3) in subparagraph (C)(i)(II), by striking “subparagraph (B)(i)(IV).” and inserting “subparagraph (B)(i)(VI)” and striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(VI)”;

(4) in subparagraph (C)(i)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following new subclauses:

“(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

“(V) such person is person described in section 202(x)(1)(A)(iv).”

(b) **TITLE VIII AMENDMENTS.**—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following new subparagraphs:

“(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(E) obtain information concerning whether such person is a person described in section 804(a)(2); and”;

(2) in subsection (b), by adding at the end 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 (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(A) such person is described in section 804(a)(2).

“(B) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(C) the location or apprehension of such person is within the officer’s official duties.”; and

(3) in subsection (d)(1)—

(A) by striking “or” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

“(E) such person is a person described in section 804(a)(2).”;

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and”;

(2) in clause (iii)(II)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI)”;

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI)”;

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

“(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is a person described in section 1611(e)(4)(A).”;

(4) by adding at the end the following new clause:

“(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 1611(e)(4)(A).

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”;

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Secretary” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner”;

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected

by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner”;

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10)”;

(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10)”;

(4) by inserting after paragraph (6) the following new paragraph:

“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.

(B) The total of the amount certified for payment to such individual or such individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”;

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

“(1) LIABILITY FOR MISUSED AMOUNTS.—

(I) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit

amount misused by the representative payee with respect to such individual."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (C)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

(2) by striking subparagraph (H) and inserting the following:

"(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and

the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determina-

tion of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to."

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking "who—" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to."

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section."

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting "representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment

of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary—

"(I) is described in clause (iv) or (v) of paragraph (1)(A); and

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties."

(b) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration; and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following:

"Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe."

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor."

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," by striking "or 'Medicaid,'" and inserting " 'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan'"; and by inserting "CMS," after "HCFA";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

"(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

"(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

"(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized.

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered

services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) **AMENDMENTS TO TITLE II.**—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor."

(b) **AMENDMENTS TO TITLE VIII.**—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking "(i) RESTITUTION.—In any case where" and inserting the following:

"(i) RESTITUTION.—

"(1) **IN GENERAL.**—In any case where"; and

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

"(2) **COURT ORDER FOR RESTITUTION.**—

"(A) **IN GENERAL.**—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(B) **RELATED PROVISIONS.**—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

"(C) **STATED REASONS FOR NOT ORDERING RESTITUTION.**—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor."

(c) **AMENDMENTS TO TITLE XVI.**—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this

subsection, the court shall state on the record the reasons therefor."

(d) **SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.**—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

"(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts."

(e) **EFFECTIVE DATE.**—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) **IN GENERAL.**—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting ", except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

(2) by adding at the end the following new sentence: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) **IN GENERAL.**—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "section 206(a)" and inserting "section 206";

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(C) by striking "paragraph (2) thereof" and inserting "such section";

(2) in subparagraph (A)(i), by striking "in subparagraphs (A)(ii)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)", and by striking "and" at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'section 1631(a)(7)(A) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

"(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

"(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

"(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a)'; and

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

"(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

"(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

"(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

"(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

"(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

"(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

"(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

"(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

(c) STUDY REGARDING FEE-WITHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

(i) their training, qualifications, and competency,

(ii) the type and quality of services provided, and

(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking "conducted under subsection (a)" and inserting "initiated under subsection (a) on or before December 17, 2004"; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004."

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(42 U.S.C. 401 et seq.)" and inserting "(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act."

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(f) **EXPENDITURES.—**Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII."

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

"(2) **DISABLED BENEFICIARY.—**The term 'disabled beneficiary' means an individual—
"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with re-

spect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

"(2) **DISABLED BENEFICIARY.—**The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking "and a transcript" and inserting "and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking "or (1)(E)".

(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal

notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "she was married";

(4) by inserting "(1)" after "(c)"; and

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

"(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving wife,

"(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

"(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior wife continued to remain institutionalized up to the time of her death, and

"(E) the individual married the surviving wife within 60 days after the prior wife's death."

(b) **WIDOWERS.**—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "he was married";

(4) by inserting "(1)" after "(g)"; and

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

"(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving husband,

"(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

"(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death."

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky," after "Illinois."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2003.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) **IN GENERAL.**—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is

amended by inserting ", but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) **AMENDMENT TO INTERNAL REVENUE CODE.**—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) **CONFORMING AMENDMENT.**—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) **CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.**—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "removed";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

(5) in paragraph (3)—

(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) **CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(c) **ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.**—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) **SOCIAL SECURITY ACT AMENDMENT.**—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all

that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions:".

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

The SPEAKER pro tempore. Pursuant to House Resolution 168, the gentleman from Texas (Mr. GREEN) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, we have had a great deal of debate already on the general debate, but I rise in opposition to the legislation in support of my amendment, and it is frustrating because there are some good things in this legislation, but I guess what is really frustrating is that why should a section of this bill be addressed to public educators, firefighter and police officers that happen to be in Texas or Georgia, and yet, in another section, we are trying to combat fraud by felons.

I agree, we should combat fraud by felons; and if we have felons who are receiving Social Security, felons who are absconding, I do not mind. In fact, why are we waiting this long to keep them from getting their Social Security? Do not go after widowed teachers, whose spouses paid into Social Security.

Eighty percent are women who receive fewer retirement benefits than men, and it is not just for teachers, firefighters in the same legislation. It just seems like it is wrong to put that issue in the same legislation due to felons receiving Social Security benefits.

In fact, I had a constituent last night say, you mean to tell me all these years I have taught and I am in the same legislation trying to close a loophole for fugitive felons receiving Social Security? I said, I am sorry, ma'am, but that is what it has. The bill has some other good things in it; but we have this amendment, and I appreciate the Committee on Rules providing this.

It is called a loophole, but it is really not. There are lots of loopholes in our laws, but it is called laws; and I know on our side of the aisle we have talked about corporate loopholes for a long

time. Let us close up the corporate loopholes, but why are we closing up one for the widowed teachers, again, who their only punishment is they worked as a public schoolteacher and was married to someone who paid into Social Security at least 10 years and, again, in some cases, many more years?

When the House first considered this legislation, it failed because of a controversial provision that we have, and the bill ought to pass, but it ought to be passed without this provision, and let us come back, get our Ways and Means subcommittee and the Committee on Ways and Means to deal with the government pension offset as a separate bill.

Last session, this legislation passed out of the House with, I do not think, any dissenting votes. It went to the Senate; and on a technicality, they added this back in, and it was stopped in the House when they tried to pass it on unanimous consent last fall and when most of us were in our districts.

In States where some public employees are not covered by Social Security, such as in Texas, this does reduce the spousal benefits by two-thirds, and in some cases, it can eliminate all of them, all their benefits. It is a problem for many public servants, but it is especially, again, bad for women, and, again, since 80 percent of the Texas schoolteachers and retirees are women. Sixty percent of that group is married, and again, I think it is interesting on the floor of the House because I always heard the statement, consistency is the hobgoblin of little minds, but here we have bills that can enforce marriage, why are people on social services, that encourage them to get married, and here we have teachers who are married for all these years, and yet we are punishing them under the pension government offset.

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

The SPEAKER pro tempore. Who seeks time in opposition?

Mr. SHAW. Mr. Speaker, I claim the time in opposition, and I yield 7 minutes to the gentleman from Texas (Mr. SAM JOHNSON), a valuable member of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this is a terrible amendment. What I am rising for is to support equality for 95 percent of working Americans who pay into Social Security.

Today's debate is about fairness, a need to bring equity to a system under scrutiny. This amendment concerns Texas teachers. This bill concerns equality, fairness and equity.

Texas is home to great students and great schools, thanks in part to great Texas teachers. Educated in Texas schools myself, I put my kids through Texas schools, and my grandkids are attending Texas schools; but there is a lot of misinformation out there about Texas teachers and their retirement plan.

Before I get too far into the details of this issue, I want to explain some of the fundamentals of Social Security. When the Social Security System was created, the workforce was made up largely of men whose wives stayed home. Spousal benefits were created for these women. Social Security spousal benefits are for the nonworking spouse of a worker covered by Social Security. Generally, we think of this as a stay-at-home mom and a working dad. Social Security retirement benefits are for those who work and pay Social Security taxes. Ninety-five percent of working Americans are covered by this program.

The situation is very different today from when Social Security was created in the 1930s. The majority of families today have two earners supporting the family. A primary rule of Social Security is that everyone is able to collect either their own retirement benefit from Social Security or their spousal benefit, whichever is higher. Let me repeat that. It is one or the other, not both.

The Texas teacher retirement system is a substitute for Social Security. A person can participate in one system or the other, but not both. Most school districts in Texas have chosen to stay out of Social Security; yet they have always had the chance to join the system. In fact, fifty school districts in Texas have entered into Social Security, and they can have their own 401(k)-type program also. Again, at any time school districts can leave the Texas teacher retirement system and enter into Social Security, but they cannot do both because the retirement system was a substitute for Social Security.

Back to Social Security. Whether a married couple works in a job such as a nurse and a small business owner, Social Security-covered teacher and an accountant or a lawyer or an engineer, they both pay into Social Security and both are subject to this rule. A husband and wife are each able to collect either their retirement benefits earned through their own hard work or they are able to collect spousal benefits, i.e., 50 percent of retirement, whichever is higher. They cannot collect both.

It is very possible that if one spouse earns significantly less than the other, for example, that nurse and a small business owner, then the nurse is going to have higher spousal benefits than her own retirement. In that case, the nurse will collect the higher spousal benefit but may ask herself why she paid all those Social Security taxes all those years. If a retirement benefit is \$600, for example, for the nurse, and her spouse benefit is \$800, she would collect \$800 but not \$1,400 which is what her husband would have collected.

Again, this is how the system works for 95 percent of all Americans. This bill concerns some teachers in Texas who have questioned the system because they want both Social Security

spouse benefits and their Texas retirement. Again, the Texas teacher retirement system is a substitute for Social Security. A person can do one or the other, but not both.

I want teachers to understand that the government pension offset actually only reduces their spousal benefit by two-thirds of their State retirement benefit rather than dollar for dollar as in the case for other working spouses.

□ 1330

Teachers right now get a better deal and more bang for their buck than 95 percent of the American public. They get one-third more of their spousal benefits than 95 percent of working Americans.

The so-called "loophole" that is being closed here today is one small part of the government pension offset meant to encourage entire school districts to join the Social Security system. If an entire school district, such as the Plano Independent School District, were to decide to enter Social Security and get out of State retirement, then every teacher in that school district would then be subject to all Social Security rules, even for a teacher who only works 1 day.

Roughly 4,800 teachers in Texas have found a way as individuals to leave their regular teaching job covered by State retirement and move, for 1 day, to a school district that does pay Social Security taxes and then retire. An example is a teacher from Plano who is covered by the State retirement system. If she transfers her last day of work from Plano to Ponder, Texas, which does pay Social Security, she is paid roughly \$6 per hour. She might pay a total of \$3 into the Social Security fund, but because of this final day of work in Ponder, paying Social Security taxes, she is able to collect the higher of either her benefit or full spousal.

Of course, because she only paid \$3 in, she would collect the spousal benefits based off her husband's work, plus she collects her Social Security substitute; that is, her Texas teacher retirement money. She can double dip, when 95 percent of the American public cannot. This costs the Social Security System thousands of dollars.

The General Accounting Office has estimated that \$450 million is being paid in benefits under this loophole, and that number could increase tenfold if the loophole is marketed to other people throughout the country.

I am pro-teacher, and in Texas they have a great State retirement system. Mr. Speaker, this is not how Social Security operates for 95 percent of working Americans and we are going to break the Social Security System.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume to say that I realize my colleague from Texas did not have time to yield, but let me just say that these teachers do not make the choice between the teacher retirement systems and Social

Security. The choice is made by the local school districts. That is why 50 school districts in Texas pay into both.

We have more than 1,100 school districts in the State of Texas where those local school board members, not those employees, those local school board members make that decision.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, there are an awful lot of good people who want to leave some kind of employment into which they have been paying Social Security and go into the classroom, and our classrooms across the State of Texas and across this whole country are crying for good people to go into the classroom.

My wife was one of those people who had a job that paid into Social Security for a long period of time. She is going to receive minimal, if anything, from the teacher retirement system. But upon her retirement is it right for her to have been discouraged, after being encouraged to come in, because she is not going to receive some of the benefits she thought she might be able to? That is not right. That is not what we are trying to do here. We want to be able to encourage good qualified people to go into our classrooms.

This legislation is going to have broad implications for teachers in Texas and many other States. It is going to very likely force an exodus, a mass exodus of good experienced teachers from our public schools. What impetus does an experienced teacher have to stay in the classroom and continue teaching if the government is, in effect, going to significantly reduce his or her retirement payment potential after this year?

Well, the bill also fails to address a larger issue for public servants in this country. The government pension offset unfairly penalizes teachers and government workers and the employees most likely to pay into a public pension plan. So how can we sit idly by while our public service employees are indeed being penalized for serving their communities?

I think we really should show a different loyalty to our first responders, who we from this floor praise so very often. The government pension offset is a deterrent to public service across this Nation. There is a solution to this problem. We believe that we offered it and it has been turned down.

If we are to attract the best and brightest in public service, such as our teachers, firefighters, and police officers, then we must repeal this unfair provision. I urge a vote for the Green amendment and I urge my colleagues to support the passage of legislation that would permanently repeal the government pension offset. Our public servants deserve our support.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Prior to being elected to Congress, some of us were actually in the profession of teaching. I was, for a number of years, and I paid into the California State Teachers Retirement System. I can tell my colleagues right now that in California, no serious and responsible professional teacher would think that their 20 or 25 years devoted to the classroom should be capped off by scurrying to another school district where there is clear collusion between the districts to allow for 1 day, 1 week, or 1 month of employment so that they can scam the system. Now, that is basically what the Green amendment asks us to continue to allow; fortunately not in California, but unfortunately in Texas and perhaps in Georgia.

Let me get my colleagues to really understand what is going on here. Is there a problem with the offset? Of course there is. We just had a colloquy on the floor with the chairman of the Subcommittee on Social Security and the ranking member of the Subcommittee on Social Security and there was agreement that we will seriously address the pension offset. I have friends of mine who are still in teaching who have implored me to address that. We are in the process of addressing it.

The whole point of the Green amendment is do we allow something to continue which goes something like this: Let us take a teacher in Texas, Mrs. Brown or a Mrs. Green, and say she is employed in Dallas or Houston. And let us say she has worked for a number of years and has successfully put a significant amount of money in the Texas State Teachers Retirement System. She is now ready to retire. She finds another district. And it is true that the local district officials choose whether their employees are in the Social Security System or in the State teachers system. That is a local choice.

But what happens is those board members are in collusion with other districts when they allow a 20-plus year career teacher to work, perhaps in areas not directly to their certificate of teaching credential but simply a job. And let us say they work there for as much as, oh, a month. They may have paid into Social Security, oh, maybe \$100. And according to the Social Security actuaries, that 1 month, after those distinguished years of teaching, could produce as much as \$93,000 of taxpayers' money going to this person who put a blemish on their professional teaching career to play an angle.

The Green amendment says let us allow these folks to continue to play this little game of collusion to raid the Social Security System under the guise that we should take care of these people. If we vote for the Green amendment what we are doing is relieving pressure to address the real problem.

I would urge all my colleagues to understand a "yes" vote on the Green

amendment slows down the addressing of the pension offset. A "no" vote on the Green amendment puts all Americans in the same position, pressuring us to do something about the pension offset. Please, do not remove the pressure by voting "yes" on the Green amendment. Vote "no" on the Green amendment and all Americans will feel the pressure, rather than just a few who distinguish themselves at the end of their teaching career to go clip lawns, sweep up paper, or maybe even latch on to a substitute position to scam the system.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume to comment that having the chairman of the Committee on Ways and Means calling this "scamming the system" is like the pot calling the kettle black. We have provisions in our Tax Code for individuals, one person. We have Tax Code provisions for one company or groups of companies. Yet it is a scam system if we are going to protect public school educators.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS), my colleague from Texas.

Mr. EDWARDS. Mr. Speaker, I rise in support of the Green amendment because I do not believe teachers should be penalized for teaching our children.

Now, my colleague from California came up with a hypothetical example, but let me tell my colleagues what will happen in real life, not hypothetically, if the Green amendment is defeated.

I now am representing Fort Hood in Texas, the only two-division Army installation in America, which has several thousand soldiers arriving in Iraq, and several thousand more per day. We will have up to 30,000 soldiers from Fort Hood, Texas, fighting for our country in Iraq most likely in the next 2 months. Now, those soldiers fighting for us today and in the weeks ahead over there come back to Texas. And the bill that Congress, which I helped pass a decade ago, the Troops to Teacher bill, actually tries to encourage those military retirees, those soldiers fighting for us today in Iraq, to go into teaching. They are doing that all throughout the school system, educating the children of military soldiers in central Texas.

Now, for those who want to defeat the Green amendment, let me just mention what that is really saying. That says that it is okay for these soldiers fighting in Iraq today for our country to pay Social Security taxes, and then when they come back to Texas and retire, they are going to have their Social Security benefits cut because some opposed the Green amendment. I think that is unfair. It is not only unfair to the soldiers to have their Social Security benefits docked because we want to defeat the Green amendment, it is unfair to the children of military families who will not have the benefit of those retired soldiers teaching in our classrooms.

It was bad enough that the administration was trying to cut impact aid to

help military kids' education during a time of war, it was worse yet when the Republican leadership pushed for a \$28 billion cut in veterans benefits during a time of war; but now, to add insult to injury, I hope the teachers of Texas, Mr. Speaker, are listening to my Republican colleagues who, intended or not, would push a policy that will penalize soldiers fighting today in Iraq who want to teach our children tomorrow. That is wrong for our servicemen and women, it is wrong for the children of Texas, and it is wrong for this country.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to comment that I think the gentleman is figuring that all those soldiers are going to come back to Texas. That is nonsense. This has nothing to do with our soldiers.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS), a distinguished member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding to me so that I might inform my friend, the gentleman from Texas (Mr. GREEN), that I am doing everything I can to fix the loopholes in the Tax Code. He is well aware that his party was in the majority for 40 years and they punched an awful lot of holes in that Tax Code. We are trying to plug it up just as rapidly as we can, but it will take a few more years to clean up 40 years of a mess.

Mr. COLLINS. Mr. Speaker, reclaiming my time, I rise in full support of the bill as presented by the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security.

With all the respect I have for the gentleman from Texas (Mr. GREEN) and what is he is attempting to do, I do have to oppose his amendment. I can appreciate what he is doing, what he is intending to do, but this is a very serious loophole that does exist. It has benefitted a number of teachers in Texas, it has benefitted a few from Georgia. There is a difference in how the teachers in each State went about it, but it is unfair to the majority of the population of this country who pay into the Social Security system based on their employment for years and years.

This has nothing to do with the government pension offset. It has nothing to do with the windfall benefit. It is all about spousal benefits, and it is a loophole that needs to be closed. It is one that has existed for some time. The Social Security commissioner has recommended that it be closed, the Government Accounting Office has also recommended it be closed, and as the chairman of the full committee men-

tioned, it can have benefits of upwards of almost \$100,000 for those who may work 1 day or 1 year in the system that is covered by Social Security, having worked the majority of their time in a system that is not.

This has caused a lot of the districts in Georgia, the school districts who do not participate in Social Security, to lose teachers to other districts who do, and it is a loophole that needs to be closed.

□ 1345

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I respect the gentleman from Georgia (Mr. COLLINS) with whom I have gone on trips to see our military, and this issue is also about the military. As the gentleman from Texas (Mr. EDWARDS) who represents Fort Hood pointed out, this will impact them unless we reform the government pension offset.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I rise today in support of the Green substitute for H.R. 743. This substitute amendment contains all of the good elements of H.R. 743, and eliminates one very negative element, section 418, which negatively affects teachers and other public servants in my district of El Paso, Texas. I have heard from countless teachers in my district regarding this bill who will have their Social Security widow's benefit reduced so severely that their financial well-being will be devastated. The Green amendment fixes this.

Mr. Speaker, in addition, H.R. 743 also affects school support personnel, police officers, firefighters, and other public servants. At a time when multi-billion-dollar tax breaks are being offered to our country's top income earners, our teachers and other public servants should not be penalized. These are the very people we should be protecting.

Finally, Mr. Speaker, I want to speak to our veterans. If this issue sounds a lot like their concurrent receipt issue, that is because it is. And it is interesting that it is the Republican leadership that opposes both of these issues. Too bad it is okay to pass billions in tax relief to the wealthy but continue to undermine our working families. I urge my colleagues to show support for our teachers and vote in favor of the Green substitute amendment.

Mr. GREEN of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Speaker, not too many months ago I had a teacher in my office in East Texas in the city of Lufkin, sitting across the desk, crying because she had learned she would not receive any of her husband's Social Security survivor benefit because she had been employed for her entire career as a teacher.

The issue before us is not a discussion on loopholes, it is whether the

government pension offset is fair. Why should teachers, firefighters, law enforcement people, be denied their survivor benefits under Social Security simply because they have a government retirement benefit? The truth of the matter is if the lady sitting across the desk from me had worked for any other private company and had received a retirement benefit from them, she would still be eligible for her husband's survivor benefit.

So I would invite the distinguished chairman of the Committee on Ways and Means, who suggested that the Green amendment slows the pressure to change the government pension offset, to merely join with us in trying to amend this legislation; or, in the alternative, to join with the 172 other Members of this House in cosponsoring legislation, H.R. 594, that eliminates this unfair government pension offset.

We are here today to fight for our Texas teachers, to fight for our Texas firefighters and our Texas law enforcement people who are unfairly disadvantaged by a government pension offset that says to them, because they work for the government and they have a separate retirement program, then they are going to be denied the very Social Security benefit that their spouse worked and earned. We hope that those who are opposing us today will take a second look, join with us and try to correct this unfair provision.

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

Mr. Speaker, I would point out to the gentleman that if somebody is enjoying a private pension in the private sector, they also paid into Social Security, which is something that the teachers that the gentleman is referring to are not doing.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, there is a great deal of misinformation being spoken today. This has nothing to do with our soldiers overseas, because they do not have a loophole; or our firefighters or police officers, because they do not have a loophole. This does have a lot to do with the widows in America who do not have a loophole and are losing \$450 million of their Social Security because one group has a loophole that no one else in America has.

Let us look at the average family in Texas because we have heard a lot of these examples. This is where the husband has made \$1,000 a year as his retirement and the wife's retirement is \$700. When he passes away, what happens? For almost everyone in America where both people work in Social Security, that benefit is \$1,000. For other families that work and have a government pension, like our firefighters and policeman, or Federal workers, for example, who paid into their own private plan, they keep more. \$1,233. They get more than most families in America.

But look at our Texas teacher. Because we have a loophole where they can go to work 1 day in Social Security and contribute \$3 and collect over \$100,000 more, they pull down \$1,700 a month for widow's benefits that no one else in America can achieve. Not other teachers in other States, not the elderly in other States, no one in America. And because of this, this is draining not just \$450 million now, but if we keep this loophole open, we will do more and more damage to everyone else in America who pays into Social Security.

Let me make a final point about this. Everyone's Social Security is offset. Members have what is called a dual-entitlement offset. That is 100 percent. Government workers is less, only 66 percent, two-thirds. Texas teachers, no offset whatsoever, so they receive many more benefits than the next-door neighbor who works hard, than Texas nurses, store clerks, the woman who takes care of our elderly in nursing homes, they do not have a loophole.

We are not going to have an America where there are two classes of citizens, those who have loopholes in Social Security and those who do not. This is about protecting the integrity of our Social Security system for every generation. If we do not close this loophole, we have lost all claim to protecting Social Security for the future.

Mr. GREEN of Texas. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE.)

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, because I support teachers, firefighters, police, and the United States military, I rise in support of this amendment.

Mr. Speaker, the Social Security Protection Act of 2003 was broken last time it came up on the floor. Many public servants in our districts noticed that and called and emailed and faxed us. We in Congress realized indeed it was broken and voted the bill down. But, here it is again—and it still has not been fixed. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

I commend my colleague and neighbor from Houston for his work in addressing the needs of our teachers—who are some of the hardest hit—in Texas. The Green Substitute will preserve all the good in the Social Security Protection Act, that so many of us have worked together in bipartisan fashion, to create. It will simply remove a single offensive provision, that was added in at the eleventh hour, and hits hard a group of people that I can't imagine anyone wanting to hit right now—when we are trying to improve our schools, when we are trying to bolster our first response capabilities, and when economic uncertainty abounds.

The Government Pension Offset (GPO) reduces or eliminates a Social Security widow's

benefit if the widow is eligible for a pension based on a state, local or federal job that was not covered by Social Security. The GPO affects many individuals, but is especially harmful for teachers, police officers, and firefighters, and is particularly burdensome for lower income workers and women. A provision in current law, however, allows some state and local government employees to escape the application of the GPO if they switch jobs at the end of their government careers.

It is sad that we make dedicated employees jump through such hoops to get the benefits they deserve. I would like to totally revisit the GPO, but know that today is not the day to do it. Today, the best we can do is to keep this small loophole open and allow good people to continue to go into public service. I usually appreciate closing loopholes, but this one is too valuable to our schools and first responders.

As it stands, H.R. 743 modifies the last-day-exemption clause by requiring public servants to work an additional five years in order to receive a full spousal benefit. This legislation does nothing to remedy the GPO to make it fairer for public servants. There are many people who are interested in going into public service as a second career, but may not be able to work and then switch employment for five years. These people may not then be able to afford to serve. This is ridiculous at a time when needs are so great in our society.

The Green amendment strips this one, hidden, offensive provision in this otherwise non-controversial bill. I urge my colleagues to support teachers, firefighters, police officers, and other public servants by supporting the Green amendment.

For example, last month I received a call from one woman in my District who was a teacher earlier in life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose \$360 per month in retirement benefits—over \$4000 per year.

Why should she risk it? If H.R. 743 passes today as is, it won't be only she that loses. It will be our nation's children who lose—an experienced, intelligent teacher. The Green Substitute will allow her to help leave no child behind.

I will support the Green Substitute to H.R. 743, and urge my colleagues to do the same.

Mr. GREEN of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ORTIZ).

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

Mr. ORTIZ. Mr. Speaker, the thing that we are trying to correct here today is we do not have a problem with the 50 school districts that pay Social Security, but we do have a problem with the 1,100 or more school districts where they are not allowed to pay Social Security. This is why the Green

amendment is a good amendment. We are trying to correct a deficiency that exists.

We have a lot of soldiers and sailors who are fighting this war. They do pay Social Security. When they come back and they decide to take up the profession of teaching, they are going to lose their benefits. This is a true fact. This is what we are trying to correct.

The teachers across the State of Texas are mostly women, and they are not wealthy people. If I had worked so many years and my spouse dies, I should be qualified to receive what my husband has paid into.

Mr. GREEN of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, today the House stands to make a choice. We must choose to support our widowed teachers and public employees, or we choose to oppose them. The choice is ours. I am appalled that our friends on the other side of the aisle would take a stand against our teachers and claim that the teachers are receiving full spousal benefits and are engaged in a gimmick or a trick or a fraud. Obtaining spousal benefits is not a trick or a fraud. It is a payment for an entire lifetime of work by a spouse. It is a payment for an entire lifetime of a man and woman working together.

Saying that teachers receive Social Security for working 1 day of work is simply not true, and our friends on the other side of the aisle know it and it is embarrassing for them to say that. The real fraud in this is that the Democrats on the Committee on Ways and Means offered to fix this section by using the language of the Republicans if they would address the GPO. The Republicans said no. Clearly the Green amendment points out the total absurdity of the GPO. It is quite simple.

Here is the way, the Republican plan. If someone works for an insurance company, no offset. If someone works for a pharmaceutical company, no offset. If someone works for an HMO, no offset. But if that person is a teacher, there is an offset and their spouse's lifetime of work is absolutely meaningless. At least our friends on the other side of the aisle are consistent. They believe that neither the veterans nor the teachers should receive the benefits that they have earned from a lifetime of work. We saw that yesterday and we are seeing that today. Teachers work hard, they follow the rules. They are being rewarded for a lifetime of work with their spouse.

We should not be involved in changing the rules of the game in the middle of the game. Let us stand up for our teachers. Our teachers should be rewarded. Our teachers should not be punished. Let us support the Green amendment and do what we ought to do in this House.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, I would say to the gentleman from Texas (Mr. TURNER), that tearful constituent of his is probably not scheming to game the system.

I would say to the gentleman from Texas (Mr. EDWARDS), I think it is a bit disingenuous to invoke our troops and our firefighters.

I would say to the gentleman from Texas (Mr. GREEN) who offers the amendment, the amendment would strip section 418 out of the underlying bill.

And I would again say to the gentleman from Texas (Mr. SANDLIN) who just spoke, would the following hypothetical be considered a gimmick, trick or fraud: A university professor who works his entire life as a university professor, works a single day as a janitor making \$6 an hour, an 8-hour day, \$48, and out of that paycheck, there is a \$3 FICA withholding, is it a gimmick, a trick or a fraud for that \$3 FICA withholding to then translate into roughly \$100,000; \$5,000 a year for 20 years of retirement?

Unfortunately, Mr. Speaker, that is not a gimmick, trick, or fraud. It is not even a hypothetical. It is a real-life example of something that has occurred that needs to be changed. A real janitor would not see that \$100,000.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say they are not receiving the benefits because of that 1 day, they are receiving them because they were married for at least 10 years to someone who paid into Social Security. That is the reason that they are receiving it. It is not hypothetical. We have people who have paid into Social Security for 40 years, and their spouses have received nothing. That is wrong.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, my Republican colleagues may not like the truth, but they cannot run from it. The truth is that by defeating the Green amendment, what they are saying to some of the thousands of soldiers from my district in the Iraqi theater today, that if they come back home to Texas and take advantage of the Troops to Teachers program passed by Congress to encourage them to become teachers, then their Social Security benefits are going to be reduced or eliminated. That is wrong. It is unfair. It discourages good people from going into the teaching profession. And I can tell Members, the school districts in my district value highly having these retired Army soldiers teaching in the classrooms. The other side may not like the facts, but they are going to have to accept them.

□ 1400

Mr. SHAW. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, others may not like the facts either.

My younger brother has been deployed as an Army medic in the 67th Brigade. He will be watching out for the 4th Infantry Division in the Persian Gulf, his second tour of duty. He does not have a loophole. He cannot work 1 day and collect \$100,000. Yes, he has an offset like the rest of America has an offset. When we hear this said no one else has an offset, it is absolutely untrue. What we are trying to defend here is some of America that has a loophole and all the rest of us, firefighters, widows, the elderly have no loophole. We are protecting the security of Social Security.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

To my really good friend and neighbor, that is the whole point of the debate. We should reform the government pension offset and not punish those who have found a way to deal with it.

Mr. Speaker, I yield 1 minute to the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON).

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of the Green amendment. It is interesting as we sit here and listen to each other that the teaching profession is probably one of the most important professions there is. Not a single person here has gotten here without having some teachers. We do not pay them very much. It is one of the low-paying professions. And yet we do not want them to receive their spouses' Social Security. My Social Security is going to be offset with a pension. I am willing to allow that to go for making sure that the teachers after a long career of teaching can have a retirement, scraping together the pennies so they can live without going on a system that is no longer called welfare because we do not have it.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time to close.

Mr. GREEN of Texas. Mr. Speaker, I think I have the right to close, and I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Florida has the right to close.

The gentleman from Texas has 2½ minutes remaining, and the gentleman from Florida has 2 minutes remaining.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

The reason I am offering this amendment is because the underlying bill provides for this section 418. There are a lot of good provisions in the underlying bill, and people can vote for my amendment and still vote for the bill. There are other States with public employees like Texas. It just impacts Texas more than I guess other States, maybe Georgia or somewhere else, that reduces our spousal benefits because we have local governments that do not participate in Social Security. Only 50 of our school districts, the gentleman

from Texas (Mr. SAM JOHNSON), participate; but we have over 1,100 school districts, and that is a local decision. My wife as a teacher did not decide she would go to work for someone who paid Social Security. She went to work because she wanted to be a teacher, and that is the frustration because no one thinks about it until they realize later in their careers, wait a minute, I have been married for all these years and I am going to get penalized if my husband passes away?

Marriage is a contract. It is also a contract that says they have worked together for all those years and yet if they happen to be a public school teacher, tough luck for that marriage contract. They do not benefit. They get punished because they worked as a teacher and they did not pay into Social Security, but their spouse did, their husband did. Again, we are talking about 80 percent of the public schoolteachers in Texas and I am sure nationwide, and I am sure this is a nation-wide problem. It is just that Texas has found a way around it, and yet you are going to punish Texas, and yet Georgia and other States have the same problem. Almost all these people are eligible for Medicare through their husbands, but none of them are eligible for their spousal benefit because of the government pension offset. The GPO is wrong, and I would not be here today if we had a bill come out to deal with the GPO on a fair basis, the government pension offset; but we are not.

I do not want to keep this loophole. I want it to treat fairly all the government employees who are being treated badly, but it affects teachers because they are the most in population. It affects firefighters and police officers also; but after a lifetime of being underpaid and they depend on their husband's Social Security or widow's benefits if they pass away and yet we take it away, and it is just frustrating to see that happen and to punish people. Yes, in Texas we found a way to deal with this wrong and you are punishing teachers because we have dealt with it instead of dealing with it in Congress, and that is what is wrong.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, people watching this debate may have noticed that the only speakers in favor of the gentleman from Texas's amendment are Members from the State of Texas. We have seen even Jessica Lynch, an American hero who has just been freed as a prisoner of war, brought into this debate. Jessica is going back to West Virginia to teach, and she is not going to get this loophole. We need to wipe it out. It is unfair, and it is gaming the system.

We have heard about people in the private sector, employees of HMOs, employees of automobile companies and all, they do not have the pension offset. They do not have it because they paid into Social Security. Why should they have an offset if they have paid into Social Security?

We have heard about the soldiers coming home. What type of a desperate argument is this? This has nothing to do with the soldiers anymore than someone right now who is struggling to get through college to go to teach themselves. Ladies and gentlemen, I will tell it to the 48 other States other than Texas and Georgia that you would be giving public employees in two States an advantage that they do not receive in the rest of the country. You will be giving to these teachers and these firefighters something that their teachers and their firefighters will not have. This is basically unfair. We are going to correct it.

We have heard about the pension offset. All of us have been talked about that. Our Federal employees, our retired Federal employees, they have all been into our office talking about the pension offset. That is going to cost us \$9 billion if we are able to do something with it, and I would like to address that; and Mr. MATSUI and I have agreed to have hearings on it, and we are going to look to ways in order to try to do that, but that has nothing to do with this vote, absolutely nothing to do with it. This has only to do with a handful of public employees who are gaming the system in the State of Texas and even a smaller number in the State of Georgia. Vote "no" on the Green amendment. Vote "yes" on the bill. It is a good bill, and it is time that we clean this up.

The SPEAKER pro tempore. Pursuant to House Resolution 168, the previous question is ordered on the bill, as amended, and on the further amendment by the gentleman from Texas (Mr. GREEN).

The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. GREEN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GREEN of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 196, nays 228, not voting 10, as follows:

[Roll No. 100]

YEAS—196

Ackerman	Bonilla	Case
Alexander	Boswell	Clay
Allen	Boucher	Clyburn
Andrews	Boyd	Conyers
Baca	Brady (PA)	Costello
Baldwin	Brown (OH)	Crowley
Ballance	Brown, Corrine	Cummings
Becerra	Burgess	Davis (AL)
Bell	Burns	Davis (CA)
Berkley	Capps	Davis (FL)
Berman	Capuano	Davis (IL)
Berry	Cardin	DeFazio
Bilirakis	Cardoza	DeGette
Bishop (GA)	Carson (IN)	Delahunt
Bishop (NY)	Carson (OK)	DeLauro
Blumenauer	Carter	Deutsch

Dingell	Langevin	Rangel
Doggett	Lantos	Reyes
Edwards	Larsen (WA)	Rodriguez
Emanuel	Larson (CT)	Ross
Engel	Lee	Rothman
Eshoo	Levin	Roybal-Allard
Etheridge	Lewis (GA)	Ruppersberger
Evans	Lofgren	Rush
Farr	Lowey	Ryan (OH)
Fattah	Lucas (KY)	Sanchez, Linda T.
Filner	Lynch	Sanchez, Loretta
Ford	Majette	Sanders
Frank (MA)	Maloney	Sandlin
Frost	Markey	Schakowsky
Gillmor	Marshall	Schiff
Gonzalez	Matheson	Scott (CA)
Gordon	Matsui	Scott (VA)
Granger	McCarthy (NY)	Serrano
Green (TX)	McCollum	Sherman
Grijalva	McDermott	McGovern
Gutierrez	McGovern	McIntyre
Hall	McIntyre	McNulty
Harman	McNulty	Meehan
Hastings (FL)	Meehan	Meek (FL)
Hefley	Meek (FL)	Meeks (NY)
Hill	Meeks (NY)	Menendez
Hinchee	Menendez	Michaud
Hingjosa	Michaud	Millender-
Hoeffel	Millender-	McDonald
Holt	McDonald	Miller (NC)
Honda	Miller (NC)	Miller, George
Hooley (OR)	Miller, George	Mollohan
Hoyer	Mollohan	Moore
Inslee	Moore	Moran (VA)
Israel	Moran (VA)	Nadler
Jackson (IL)	Nadler	Napolitano
Jackson-Lee (TX)	Napolitano	Neal (MA)
Jefferson	Neal (MA)	Oberstar
John	Oberstar	Oliver
Johnson (IL)	Oliver	Ortiz
Johnson, E. B.	Ortiz	Owens
Jones (OH)	Owens	Pallone
Kaptur	Pallone	Pascrell
Kennedy (RI)	Pascrell	Pastor
Kildee	Pastor	Paul
Kilpatrick	Paul	Payne
Kind	Payne	Pelosi
Kleczka	Pelosi	Peterson (MN)
Kucinich	Peterson (MN)	Price (NC)
Lampson	Price (NC)	Rahall
	Rahall	

NAYS—228

Abercrombie	Culberson	Hayworth
Aderholt	Cunningham	Hensarling
Akin	Davis, Jo Ann	Herger
Bachus	Davis, Tom	Hobson
Baird	Deal (GA)	Hoekstra
Baker	DeLay	Holden
Ballenger	DeMint	Hostettler
Bartlett (MD)	Diaz-Balart, L.	Houghton
Barton (TX)	Diaz-Balart, M.	Hulshof
Bass	Dicks	Hunter
Beauprez	Dooley (CA)	Isakson
Bereuter	Doolittle	Issa
Biggett	Doyle	Istook
Bishop (UT)	Dreier	Janklow
Blackburn	Duncan	Jenkins
Blunt	Dunn	Johnson (CT)
Boehler	Ehlers	Johnson, Sam
Boehner	Emerson	Jones (NC)
Bonner	English	Kanjorski
Bono	Everett	Keller
Boozman	Feeney	Kelly
Bradley (NH)	Ferguson	Kennedy (MN)
Brady (TX)	Flake	King (IA)
Brown (SC)	Fletcher	King (NY)
Brown-Walte,	Foley	Kingston
Ginny	Forbes	Kirk
Burr	Fossella	Kline
Burton (IN)	Franks (AZ)	Knollenberg
Buyer	Frelinghuysen	Kolbe
Calvert	Gallegly	LaHood
Camp	Garrett (NJ)	Latham
Cannon	Gerlach	LaTourette
Cantor	Gibbons	Leach
Capito	Gilchrest	Lewis (CA)
Castle	Gingrey	Lewis (KY)
Chabot	Goode	Linder
Chocoma	Goodlatte	Lipinski
Coble	Goss	LoBlondo
Cole	Graves	Lucas (OK)
Collins	Green (WI)	Manzullo
Cooper	Greenwood	McCotter
Cox	Gutknecht	McCrery
Cramer	Harris	McHugh
Crane	Hart	McKeon
Crenshaw	Hastings (WA)	Mica
Cubin	Hayes	Miller (FL)

Miller (MI)	Radanovich	Snyder
Miller, Gary	Ramstad	Stearns
Moran (KS)	Regula	Sullivan
Murphy	Rehberg	Sweeney
Murtha	Renzi	Tancredo
Musgrave	Reynolds	Tauzin
Myrick	Rogers (AL)	Taylor (MS)
Ney	Rogers (KY)	Taylor (NC)
Northup	Rogers (MI)	Terry
Norwood	Rohrabacher	Thomas
Nunes	Ros-Lehtinen	Thornberry
Nussle	Royce	Tiahrt
Obey	Ryan (WI)	Tiberi
Osborne	Ryun (KS)	Toomey
Ose	Sabo	Turner (OH)
Otter	Saxton	Upton
Oxley	Schrock	Vitter
Pearce	Sensenbrenner	Walsh
Pence	Sessions	Wamp
Peterson (PA)	Shadegg	Weldon (FL)
Petri	Shaw	Weldon (PA)
Pickering	Shays	Weller
Pitts	Sherwood	Whitfield
Platts	Shimkus	Wicker
Pombo	Shuster	Wilson (NM)
Pomeroy	Simmons	Wilson (SC)
Porter	Simpson	Wolf
Portman	Smith (MI)	Young (AK)
Pryce (OH)	Smith (NJ)	Young (FL)
Putnam	Smith (TX)	
Quinn	Smith (WA)	

NOT VOTING—10

Barrett (SC)	Hyde	Souder
Combest	McCarthy (MO)	Walden (OR)
Davis (TN)	McInnis	
Gephardt	Nethercutt	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are reminded that there are 2 minutes remaining on this vote.

□ 1428

Ms. GINNY BROWN-WAITE of Florida, and Messrs. SHERWOOD, CRENSHAW, BACHUS, GARY G. MILLER of California, MCHUGH, REYNOLDS, ISTOOK, PORTER, DOOLEY of California and REGULA changed their vote from "yea" to "nay."

Mrs. JONES of Ohio and Mr. HEFLEY changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1430

MOTION TO RECOMMIT OFFERED BY MR. GREEN OF TEXAS

Mr. GREEN of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). Is the gentleman opposed to the bill?

Mr. GREEN of Texas. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GREEN of Texas moves to recommit the bill, H.R. 743, to the Committee on Ways and Means with instructions to report the same back to the House promptly with an amendment addressing the concerns of Federal, State, and local government employees about the government pension offset under title II of the Social Security Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes in support of his motion.

Mr. GREEN of Texas. Mr. Speaker, I know a lot of Members thought that last battle was just because of Texas teachers, firefighters, or police officers; and it is, but simply because Texas has found a way to deal with the government pension offset. Another State, Georgia, has tried and is doing the same thing.

We need to reform the government pension offset. A lot of Members have told me, we are going to vote for you, we are going to vote against you, but we need to reform it. This is what this motion to recommit says, to report back. It instructs the Committee on Ways and Means with instructions to report the same back to the House promptly with an amendment addressing the concerns of Federal, State, and local employees about the government pension offset under title II of the Social Security Act.

During the last 3 or 4 years, there have been bills introduced in this House that have been bipartisan. We have had at times 218 cosponsors of legislation to reform the government pension offset and have not had a hearing.

We have a bill right now, H.R. 594, that has at least 50 Republican cosponsors, and has about 175, and I think it has only been out for a few weeks for cosponsorship, to reform the government pension offset. This is our way to use our rules to be able to say to one of our committees, whether it is my Committee on Energy and Commerce or something else, to say we want to reform the government pension offset. That is why we want to send this bill back. They can reform it and send it back to us. That is what this is about.

If Members want to reform the government pension offset, if they want to take a benefit for not only teachers in Texas but teachers all across the country, Federal employees, military, because the government pension offset affects everyone who is a public employee, then we need to reform it. That is the job of our committee, the Committee on Ways and Means.

I would hope that Members would vote for this motion. That way, we would actually see this vote on the floor of the House that I have not seen until the last few weeks dealing with the government pension offset.

Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, about 200 of us have regularly signed on as cosponsors to the legislation of our colleague, the gentleman from California (Mr. MCKEON), to repeal the Government Pension Offset. In the Committee on Ways and Means, a more modest proposal would simply cut the government pension offset in half. It is authored by the gentleman from Florida (Mr. SHAW) and was joined by a number of Republicans on that committee.

In the committee, we sought not to leave some special provision that Texas teachers have used to protect themselves. We said instead, "solve that problem." We did not use our language to correct the government pension offset; but we took verbatim the language of the gentleman from Florida (Mr. SHAW), his words, joined by four or five Republican members of the Committee.

This motion would permit us to go back and get the correction that all of us have said we want. I do not believe those who suffer from this offset want merely a promise in every pot. They do not want just a committee hearing; they want action. With this motion to recommit, we would get that action and get it promptly for all the firefighters, police officers, and teachers in all the 50 States who deserve to have that done.

Mr. GREEN of Texas. Mr. Speaker, it is frustrating, because a lot of us have heard from our public employees across the country and in our districts. They are frustrated when they find out they get penalized, even though they did pay into Social Security. Or in the case of teachers in Texas who do not have the option because of their local school district decision, they do not even receive their widow's benefits without such a penalty. That is what is frustrating.

We need to reform the government pension offset. That is what the committee should do, and that is what this motion to instruct would do. I urge an "aye" vote.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, the gentleman from California who is interested in dealing with the teachers' issues is named BUCK MCKEON. We have talked about him as a good \$1 bill, the gentleman from California (Mr. MCKEON).

I want Members to know this motion to recommit is a \$3 bill. If Members have never seen a \$3 bill, all Members have to do is look at this motion to recommit. As we all know, there is no such thing as legal tender that is a \$3 bill.

What this motion to recommit does is it kills the bill. I ask the freshmen to listen carefully. If this motion to recommit said "report the same back to the House forthwith," a little word, "forthwith", what the gentleman from Texas (Mr. GREEN) was talking about could possibly occur. But he used the word "promptly" knowingly, because they know that a motion to recommit with the word "promptly" in it kills the bill.

Let me tell the Members what this motion to recommit really does: it says that the Social Security Administration cannot withhold tax refunds of people who cheat other taxpayers. It

says that the Social Security Administration cannot impose monetary penalties on those who mismanage benefits. If says that we cannot create new civil monetary penalties for Social Security fraud.

In other words, if people are for the good stuff that is in the bill, they are against this motion to recommit. The motion to recommit cannot add what they said it does because of the way it is written, it is very simple.

There was not a lot of honest debate on the amendment, and this motion to recommit is not an honest amendment to recommit. It is a motion to kill. Let us vote "no" on this so we can get on to the basic business of passing a very important and helpful bill. Vote "no" on this \$3 bill, the motion to recommit.

PARLIAMENTARY INQUIRY

Mr. GREEN of Texas. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. GREEN of Texas. I do not know about a \$3 bill, but maybe the Committee on Ways and Means could get one printed.

Mr. Speaker, it is my understanding that under our House rules that we are required to use the word "promptly" instead of "forthwith" because we now have had a budget resolution. I would ask, is that correct?

The SPEAKER pro tempore. The Chair cannot anticipate the propriety of another kind of motion.

Mr. GREEN of Texas. I withdraw the parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GREEN of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 203, noes 220, not voting 11, as follows:

[Roll No. 101]

AYES—203

Abercrombie	Boswell	Costello
Ackerman	Boucher	Cramer
Alexander	Boyd	Crowley
Allen	Brady (PA)	Cummings
Andrews	Brown (OH)	Davis (AL)
Baca	Brown, Corrine	Davis (CA)
Baird	Capps	Davis (FL)
Baldwin	Capuano	Davis (IL)
Ballance	Cardin	DeFazio
Becerra	Cardoza	DeGette
Bell	Carson (IN)	DeLahunt
Berkley	Carson (OK)	DeLauro
Berman	Case	Deutsch
Berry	Clay	Dicks
Bishop (GA)	Clyburn	Dingell
Bishop (NY)	Conyers	Doggett
Blumenauer	Cooper	Doolley (CA)

Doyle	Lee	Rodriguez
Edwards	Levin	Ross
Emanuel	Lewis (CA)	Rothman
Engel	Lipinski	Roybal-Allard
Eshoo	Lofgren	Ruppersberger
Etheridge	Lowey	Rush
Evans	Lucas (KY)	Ryan (OH)
Farr	Lynch	Sabo
Fattah	Majette	Sanchez, Linda
Filner	Maloney	T.
Ford	Markey	Sanchez, Loretta
Frank (MA)	Marshall	Sanders
Frost	Matheson	Sandlin
Gonzalez	Matsui	Schakowsky
Gordon	McCarthy (NY)	Schiff
Green (TX)	McCollum	Scott (GA)
Grijalva	McDermott	Scott (VA)
Gutierrez	McGovern	Serrano
Hall	McIntyre	Sherman
Harman	McNulty	Skelton
Hastings (FL)	Mechan	Slaughter
Hill	Meek (FL)	Smith (WA)
Hinchey	Meeks (NY)	Snyder
Hinojosa	Menendez	Soils
Hoefel	Michaud	Spratt
Holden	Millender-	Stark
Holt	McDonald	Stenholm
Honda	Miller (NC)	Strickland
Hoolley (OR)	Miller, George	Stupak
Hoyer	Mollohan	Tanner
Inslee	Moore	Tauscher
Israel	Moran (VA)	Taylor (MS)
Jackson (IL)	Murtha	Thompson (CA)
Jackson-Lee	Nadler	Thompson (MS)
(TX)	Napolitano	Tierney
Jefferson	Neal (MA)	Towns
John	Oberstar	Turner (TX)
Johnson, E. B.	Obey	Udall (CO)
Jones (OH)	Olver	Udall (NM)
Kanjorski	Ortiz	Van Hollen
Kaptur	Owens	Velaquez
Kennedy (RI)	Pallone	Visclosky
Kildee	Pascarell	Waters
Kilpatrick	Pastor	Watt
Kind	Payne	Waxman
Kleczka	Pelosi	Wclner
Kucinich	Peterson (MN)	Wexler
Lampson	Pomeroy	Woolsey
Langevin	Price (NC)	Wu
Lantos	Rahall	Wynn
Larsen (WA)	Rangel	
Larson (CT)	Reyes	

NOES—220

Aderholt	Crane	Hart
Akin	Crenshaw	Hastings (WA)
Bachus	Cubin	Hayes
Baker	Culberson	Hayworth
Ballenger	Cunningham	Hefley
Barrett (SC)	Davis, Jo Ann	Hensarling
Bartlett (MD)	Davis, Tom	Herger
Barton (TX)	Deal (CA)	Hobson
Bass	DeLay	Hoekstra
Beauprez	DeMint	Hostettler
Bereuter	Diaz-Balart, L.	Houghton
Biggett	Diaz-Balart, M.	Hulshof
Bilirakis	Doollittle	Hunter
Bishop (UT)	Dreier	Isakson
Blackburn	Duncan	Issa
Blunt	Dunn	Istook
Boehler	Ehlers	Janklow
Bochner	Emerson	Jenkins
Bonilla	English	Johnson (CT)
Bonner	Everett	Johnson (IL)
Bono	Feceny	Johnson, Sam
Boozman	Ferguson	Jones (NC)
Bradley (NH)	Flake	Keller
Brady (TX)	Fletcher	Allen
Brown (SC)	Foley	Andrews
Brown-Waite.	Forbes	Baca
Ginny	Fossella	Bachus
Burgess	Franks (AZ)	Baird
Burns	Frellinghuysen	Baker
Burr	Gallegly	Baldwin
Burton (IN)	Garrett (NJ)	Ballance
Buyer	Gerlach	Ballenger
Calvert	Gibbons	Barrett (SC)
Camp	Gilchrest	Bartlett (MD)
Cannon	Gillmor	Barton (TX)
Cantor	Gingrey	Bass
Capito	Goode	Beauprez
Carter	Goodlatte	Becerra
Castle	Goss	Bereuter
Chabot	Granger	Berkley
Chocola	Graves	Berman
Coble	Green (WI)	Berry
Cole	Greenwood	Biggert
Collins	Gutknecht	Bilirakis
Cox	Harris	Bishop (GA)

McKeon	Quinn	Smith (TX)
Mica	Radanovich	Stearns
Miller (FL)	Ramstad	Sullivan
Miller (MI)	Regula	Sweeney
Miller, Gary	Rehberg	Tancredo
Moran (KS)	Renzi	Tauzin
Murphy	Reynolds	Taylor (NC)
Musgrave	Rogers (AL)	Terry
Myrick	Rogers (KY)	Thomas
Ney	Rogers (MI)	Thornberry
Northup	Rohrabacher	Tiahrt
Norwood	Ros-Lehtinen	Tiberi
Nunes	Royce	Toomey
Osborne	Ryan (WI)	Turner (OH)
Ose	Ryun (KS)	Upton
Otter	Saxton	Vitter
Oxley	Schrock	Walsh
Pearce	Sensenbrenner	Wamp
Pence	Sessions	Weldon (FL)
Peterson (PA)	Shadegg	Weldon (PA)
Petri	Shaw	Weller
Pickering	Shays	Whitfield
Platts	Sherwood	Wicker
Pombo	Shimkus	Wilson (NM)
Porter	Shuster	Wilson (SC)
Portman	Simmons	Wolf
Pryce (OH)	Smith (MI)	Young (AK)
Putnam	Smith (NJ)	Young (FL)

NOT VOTING—11

McCarthy (MO)	Pitts
McInnis	Soudcr
Nethercutt	Walden (OR)
Paul	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that approximately 2 minutes remain in this vote.

□ 1454

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 396, noes 28, not voting 10, as follows:

[Roll No. 102]

AYES—396

Abercrombie	Bishop (NY)	Calvert
Ackerman	Bishop (UT)	Camp
Aderholt	Blackburn	Cannon
Akin	Blumenauer	Cantor
Alexander	Blunt	Capito
Allen	Boehler	Capps
Andrews	Boehner	Capuano
Baca	Bonilla	Cardin
Bachus	Bonner	Cardoza
Baird	Bono	Carson (IN)
Baker	Boozman	Carson (OK)
Baldwin	Boswell	Case
Ballance	Boucher	Castle
Ballenger	Boyd	Chabot
Barrett (SC)	Bradley (NH)	Chocola
Bartlett (MD)	Brady (PA)	Clay
Barton (TX)	Brady (TX)	Clyburn
Bass	Brown (OH)	Coble
Beauprez	Brown (SC)	Cole
Becerra	Brown, Corrine	Collins
Bereuter	Brown-Waite.	Cooper
Berkley	Ginny	Costello
Berman	Graves	Cox
Berry	Burns	Cramer
Biggert	Burr	Crane
Bilirakis	Burton (IN)	Crenshaw
Bishop (GA)	Buyer	Crowley

Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Cingrey
Goode
Goodlatte
Gordon
Goss
Graves
Green (WI)
Greenwood
Crijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchee
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hoolley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John

Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
Lahood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marky
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCreery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Mechan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Ney
Northrup
Norwood
Nunes
Nussle
Oberstar
Obey
Oliver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascarell
Pastor

Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schrock
Scott (CA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberti
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky

Vitter
Walsh
Wamp
Waters
Watt
Waxman
Weiner

Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)

Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

□ 1727

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HENSARLING) at 5 o'clock and 27 minutes p.m.

NOES—28

Bell
Carter
Conyers
Davis (IL)
Doggett
Edwards
Frost
Gonzalez
Granger
Green (TX)

Hall
Hinojosa
Jackson (IL)
Jackson-Lee
(TX)
Johnson, E. B.
Lampson
Lewis (GA)
Michaud
Ortiz

Paul
Reyes
Rodriguez
Rush
Sandlin
Schakowsky
Stenholm
Turner (TX)
Watson

NOT VOTING—10

Combest
Davis (TN)
Davis, Jo Ann
Gephardt

Hyde
McCarthy (MO)
McInnis
Nethercutt

Tierney
Walden (OR)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1501

So the bill was passed.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 857

Mr. SWEENEY. Mr. Speaker, I ask unanimous consent that the gentleman from Washington (Mr. SMITH) be removed as a cosponsor of H.R. 857.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 660 AND H.R. 1014

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 660 and H.R. 1014.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. RES. 59

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H. Res. 59.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

REPORT ON H.R. 1559, EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 2003

Mr. YOUNG of Florida, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108-55) on the bill (H.R. 1559) making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

HONORING PRIME MINISTER TONY BLAIR WITH CONGRESSIONAL GOLD MEDAL

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to tell my colleagues about a bill I introduced 2 days ago. It is H.R. 1511. The purpose is to honor British Prime Minister Tony Blair with a Congressional Gold Medal.

Mr. Blair is a true ally and friend to this country and has shown incredible leadership, resolve, and solidarity with the United States in recent months. I thank him for his friendship, and I want to honor his commitment and contribution to this country by bestowing him with this honor.

The Congressional Gold Medal is the highest expression of national appreciation for distinguished achievement and contributions to the United States that Congress can offer to any individual. The Congressional Gold Medal of Honor was originally created by this body in 1776 to recognize military leaders, and the first recipient was George Washington.

Since that time, the award has evolved to include world leaders and humanitarians as well. Great Britain has long been one of America's closest friends and staunchest allies. I thank the Prime Minister and Great Britain for the loyalty, resolve, and support they have shown throughout this most recent conflict. I ask my colleagues to join me in supporting this resolution to pay tribute to a great man and a great leader.

Calendar No. 349

108TH CONGRESS
1ST SESSION**H. R. 743****[Report No. 108-176]**

 IN THE SENATE OF THE UNITED STATES

APRIL 3, 2003

Received; read twice and referred to the Committee on Finance

OCTOBER 29, 2003

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

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

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
 5 ~~“Social Security Protection Act of 2003”.~~

1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

Sec. 1. Short title and table of contents:

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.
- Sec. 102. Oversight of representative payees.
- Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
- Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
- Sec. 105. Liability of representative payees for misused benefits.
- Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
- Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
- Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
- Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
- Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Sec. 418. 60 month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.

**TITLE I—PROTECTION OF
BENEFICIARIES**

Subtitle A—Representative Payees

**SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY
ORGANIZATIONAL REPRESENTATIVE PAYEES.**

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the

1 first sentence the following new sentences: "In any
2 case in which a representative payee that—

3 "~~(A)~~ is not an individual (regardless of whether
4 it is a 'qualified organization' within the meaning of
5 paragraph ~~(4)~~(B)); or

6 "~~(B)~~ is an individual who, for any month dur-
7 ing a period when misuse occurs, serves 15 or more
8 individuals who are beneficiaries under this title,
9 title VIII, title XVI, or any combination of such ti-
10 tles;

11 misuses all or part of an individual's benefit paid to such
12 representative payee, the Commissioner of Social Security
13 shall certify for payment to the beneficiary or the bene-
14 ficiary's alternative representative payee an amount equal
15 to the amount of such benefit so misused. The provisions
16 of this paragraph are subject to the limitations of para-
17 graph ~~(7)~~(B)."

18 (2) MISUSE OF BENEFITS DEFINED.—Section
19 205(j) of such Act (~~42 U.S.C. 405(j)~~) is amended
20 by adding at the end the following new paragraph:

21 "~~(8)~~ For purposes of this subsection, misuse of bene-
22 fits by a representative payee occurs in any case in which
23 the representative payee receives payment under this title
24 for the use and benefit of another person and converts
25 such payment, or any part thereof, to a use other than

1 for the use and benefit of such other person. The Commis-
2 sioner of Social Security may prescribe by regulation the
3 meaning of the term 'use and benefit' for purposes of this
4 paragraph."

5 (b) TITLE VIII AMENDMENTS.—

6 (1) REISSUANCE OF BENEFITS.—Section 807(i)
7 of the Social Security Act (42 U.S.C. 1007(i)) (as
8 amended by section 209(b)(1) of this Act) is amend-
9 ed further by inserting after the first sentence the
10 following new sentences: "In any case in which a
11 representative payee that—

12 "(A) is not an individual; or

13 "(B) is an individual who, for any month
14 during a period when misuse occurs, serves 15
15 or more individuals who are beneficiaries under
16 this title, title II, title XVI, or any combination
17 of such titles;

18 misuses all or part of an individual's benefit paid to
19 such representative payee, the Commissioner of So-
20 cial Security shall pay to the beneficiary or the bene-
21 ficiary's alternative representative payee an amount
22 equal to the amount of such benefit so misused. The
23 provisions of this paragraph are subject to the limi-
24 tations of subsection (1)(2)."

1 (2) MISUSE OF BENEFITS DEFINED.—Section
2 807 of such Act (42 U.S.C. 1007) is amended by
3 adding at the end the following new subsection:

4 “(j) MISUSE OF BENEFITS.—For purposes of this
5 title, misuse of benefits by a representative payee occurs
6 in any case in which the representative payee receives pay-
7 ment under this title for the use and benefit of another
8 person under this title and converts such payment, or any
9 part thereof, to a use other than for the use and benefit
10 of such person. The Commissioner of Social Security may
11 prescribe by regulation the meaning of the term ‘use and
12 benefit’ for purposes of this subsection.”.

13 (3) TECHNICAL AMENDMENT.—Section 807(a)
14 of such Act (42 U.S.C. 1007(a)) is amended, in the
15 first sentence, by striking “for his or her benefit”
16 and inserting “for his or her use and benefit”.

17 (e) TITLE XVI AMENDMENTS.—

18 (1) REISSUANCE OF BENEFITS.—Section
19 1631(a)(2)(E) of such Act (42
20 U.S.C. 1383(a)(2)(E)) is amended by inserting
21 after the first sentence the following new sentences:

22 “*In any case in which a representative payee that—*
23 “(i) is not an individual (regardless of whether
24 it is a ‘qualified organization’ within the meaning of
25 subparagraph (D)(ii)); or

1 “(ii) is an individual who, for any month during
 2 a period when misuse occurs, serves 15 or more indi-
 3 viduals who are beneficiaries under this title, title II,
 4 title VIII, or any combination of such titles;
 5 misuses all or part of an individual’s benefit paid to the
 6 representative payee, the Commissioner of Social Security
 7 shall pay to the beneficiary or the beneficiary’s alternative
 8 representative payee an amount equal to the amount of
 9 the benefit so misused. The provisions of this subpara-
 10 graph are subject to the limitations of subparagraph
 11 (H)(ii).”.

12 (2) EXCLUSION OF REISSUED BENEFITS FROM
 13 RESOURCES.—Section 1613(a) of such Act (42
 14 U.S.C. 1382b(a)) is amended—

15 (A) in paragraph (12), by striking “and”
 16 at the end;

17 (B) in paragraph (13), by striking the pe-
 18 riod and inserting “; and”; and

19 (C) by inserting after paragraph (13) the
 20 following new paragraph:

21 “(14) for the 9-month period beginning after
 22 the month in which received, any amount received by
 23 such individual (or spouse) or any other person
 24 whose income is deemed to be included in such indi-
 25 vidual’s (or spouse’s) income for purposes of this

1 title as restitution for benefits under this title, title
2 II, or title VIII that a representative payee of such
3 individual (or spouse) or such other person under
4 section 205(j), 807, or 1631(a)(2) has misused.”.

5 (3) MISUSE OF BENEFITS DEFINED.—Section
6 1631(a)(2)(A) of such Act (42
7 U.S.C. 1383(a)(2)(A)) is amended by adding at the
8 end the following new clause:

9 “(iv) For purposes of this paragraph, misuse of bene-
10 fits by a representative payee occurs in any case in which
11 the representative payee receives payment under this title
12 for the use and benefit of another person and converts
13 such payment, or any part thereof, to a use other than
14 for the use and benefit of such other person. The Commis-
15 sioner of Social Security may prescribe by regulation the
16 meaning of the term ‘use and benefit’ for purposes of this
17 clause.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any case of benefit misuse by
20 a representative payee with respect to which the Commis-
21 sioner makes the determination of misuse on or after Jan-
22 uary 1, 1995.

1 **SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.**

2 (a) CERTIFICATION OF BONDING AND LICENSING
3 REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZA-
4 TIONAL REPRESENTATIVE PAYEES.—

5 (1) TITLE II AMENDMENTS.—Section 205(j) of
6 the Social Security Act (42 U.S.C. 405(j)) is
7 amended—

8 (A) in paragraph (2)(C)(v), by striking “a
9 community-based nonprofit social service agen-
10 cy licensed or bonded by the State” in sub-
11 clause (I) and inserting “a certified community-
12 based nonprofit social service agency (as de-
13 fined in paragraph (9))”;

14 (B) in paragraph (3)(F), by striking “com-
15 munity-based nonprofit social service agencies”
16 and inserting “certified community-based non-
17 profit social service agencies (as defined in
18 paragraph (9))”;

19 (C) in paragraph (4)(B), by striking “any
20 community-based nonprofit social service agen-
21 cy which is bonded or licensed in each State in
22 which it serves as a representative payee” and
23 inserting “any certified community-based non-
24 profit social service agency (as defined in para-
25 graph (9))”; and

1 (D) by adding after paragraph (8) (as
2 added by section 101(a)(2) of this Act) the fol-
3 lowing new paragraph:

4 “(9) For purposes of this subsection, the term ‘cer-
5 tified community-based nonprofit social service agency’
6 means a community-based nonprofit social service agency
7 which is in compliance with requirements, under regula-
8 tions which shall be prescribed by the Commissioner, for
9 annual certification to the Commissioner that it is bonded
10 in accordance with requirements specified by the Commis-
11 sioner and that it is licensed in each State in which it
12 serves as a representative payee (if licensing is available
13 in such State) in accordance with requirements specified
14 by the Commissioner. Any such annual certification shall
15 include a copy of any independent audit on such agency
16 which may have been performed since the previous certifi-
17 cation.”.

18 (2) TITLE XVI AMENDMENTS.—Section
19 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
20 amended—

21 (A) in subparagraph (B)(vii), by striking
22 “a community-based nonprofit social service
23 agency licensed or bonded by the State” in sub-
24 clause (I) and inserting “a certified community-

1 based nonprofit social service agency (as de-
2 fined in subparagraph (I))”;

3 (B) in subparagraph (D)(ii)—

4 (i) by striking “or any community-
5 based” and all that follows through “in ac-
6 cordance” in subclause (II) and inserting
7 “or any certified community-based non-
8 profit social service agency (as defined in
9 subparagraph (I)), if the agency, in ac-
10 cordance”;

11 (ii) by redesignating items (aa) and
12 (bb) as subclauses (I) and (II), respectively
13 (and adjusting the margination accord-
14 ingly); and

15 (iii) by striking “subclause (II)(bb)”
16 and inserting “subclause (II)”;

17 (C) by adding at the end the following new
18 subparagraph:

19 “(I) For purposes of this paragraph, the term ‘cer-
20 tified community-based nonprofit social service agency’
21 means a community-based nonprofit social service agency
22 which is in compliance with requirements, under regula-
23 tions which shall be prescribed by the Commissioner, for
24 annual certification to the Commissioner that it is bonded
25 in accordance with requirements specified by the Commis-

1 sioner and that it is licensed in each State in which it
2 serves as a representative payee (if licensing is available
3 in the State) in accordance with requirements specified by
4 the Commissioner. Any such annual certification shall in-
5 clude a copy of any independent audit on the agency which
6 may have been performed since the previous certifi-
7 cation.”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect on the first day
10 of the thirteenth month beginning after the date of
11 the enactment of this Act.

12 (b) PERIODIC ONSITE REVIEW.—

13 (1) TITLE II AMENDMENT.—Section 205(j)(6)
14 of such Act (42 U.S.C. 405(j)(6)) is amended to
15 read as follows:

16 “(6)(A) In addition to such other reviews of rep-
17 resentative payees as the Commissioner of Social Security
18 may otherwise conduct, the Commissioner shall provide for
19 the periodic onsite review of any person or agency located
20 in the United States that receives the benefits payable
21 under this title (alone or in combination with benefits pay-
22 able under title VIII or title XVI) to another individual
23 pursuant to the appointment of such person or agency as
24 a representative payee under this subsection, section 807,
25 or section 1631(a)(2) in any case in which—

1 “(i) the representative payee is a person who
2 serves in that capacity with respect to 15 or more
3 such individuals;

4 “(ii) the representative payee is a certified com-
5 munity-based nonprofit social service agency (as de-
6 fined in paragraph (9) of this subsection or section
7 1631(a)(2)(I)); or

8 “(iii) the representative payee is an agency
9 (other than an agency described in clause (ii)) that
10 serves in that capacity with respect to 50 or more
11 such individuals.

12 “(B) Within 120 days after the end of each fiscal
13 year, the Commissioner shall submit to the Committee on
14 Ways and Means of the House of Representatives and the
15 Committee on Finance of the Senate a report on the re-
16 sults of periodic onsite reviews conducted during the fiscal
17 year pursuant to subparagraph (A) and of any other re-
18 views of representative payees conducted during such fis-
19 cal year in connection with benefits under this title. Each
20 such report shall describe in detail all problems identified
21 in such reviews and any corrective action taken or planned
22 to be taken to correct such problems; and shall include—

23 “(i) the number of such reviews;

24 “(ii) the results of such reviews;

1 “(iii) the number of cases in which the rep-
2 representative payee was changed and why;

3 “(iv) the number of cases involving the exercise
4 of expedited, targeted oversight of the representative
5 payee by the Commissioner conducted upon receipt
6 of an allegation of misuse of funds, failure to pay a
7 vendor, or a similar irregularity;

8 “(v) the number of cases discovered in which
9 there was a misuse of funds;

10 “(vi) how any such cases of misuse of funds
11 were dealt with by the Commissioner;

12 “(vii) the final disposition of such cases of mis-
13 use of funds, including any criminal penalties im-
14 posed; and

15 “(viii) such other information as the Commis-
16 sioner deems appropriate.”

17 (2) TITLE VIII AMENDMENT.—Section 807 of
18 such Act (as amended by section 101(b)(2) of this
19 Act) is amended further by adding at the end the
20 following new subsection:

21 “(k) PERIODIC ONSITE REVIEW.—(1) In addition to
22 such other reviews of representative payees as the Com-
23 missioner of Social Security may otherwise conduct, the
24 Commissioner may provide for the periodic onsite review
25 of any person or agency that receives the benefits payable

1 under this title (alone or in combination with benefits pay-
2 able under title II or title XVI) to another individual pur-
3 suant to the appointment of such person or agency as a
4 representative payee under this section, section 205(j), or
5 section 1631(a)(2) in any case in which—

6 “(A) the representative payee is a person who
7 serves in that capacity with respect to 15 or more
8 such individuals; or

9 “(B) the representative payee is an agency that
10 serves in that capacity with respect to 50 or more
11 such individuals.

12 “(2) Within 120 days after the end of each fiscal
13 year, the Commissioner shall submit to the Committee on
14 Ways and Means of the House of Representatives and the
15 Committee on Finance of the Senate a report on the re-
16 sults of periodic onsite reviews conducted during the fiscal
17 year pursuant to paragraph (1) and of any other reviews
18 of representative payees conducted during such fiscal year
19 in connection with benefits under this title. Each such re-
20 port shall describe in detail all problems identified in such
21 reviews and any corrective action taken or planned to be
22 taken to correct such problems; and shall include—

23 “(A) the number of such reviews;

24 “(B) the results of such reviews;

1 ~~“(C) the number of cases in which the rep-~~
2 ~~resentative payee was changed and why;~~

3 ~~“(D) the number of cases involving the exercise~~
4 ~~of expedited, targeted oversight of the representative~~
5 ~~payee by the Commissioner conducted upon receipt~~
6 ~~of an allegation of misuse of funds, failure to pay a~~
7 ~~vendor, or a similar irregularity;~~

8 ~~“(E) the number of cases discovered in which~~
9 ~~there was a misuse of funds;~~

10 ~~“(F) how any such cases of misuse of funds~~
11 ~~were dealt with by the Commissioner;~~

12 ~~“(G) the final disposition of such cases of mis-~~
13 ~~use of funds, including any criminal penalties im-~~
14 ~~posed; and~~

15 ~~“(H) such other information as the Commis-~~
16 ~~sioner deems appropriate.”~~

17 (3) TITLE XVI AMENDMENT.—Section
18 1631(a)(2)(G) of such Act (42
19 U.S.C. 1383(a)(2)(G)) is amended to read as fol-
20 lows:

21 “(G)(i) In addition to such other reviews of rep-
22 resentative payees as the Commissioner of Social Security
23 may otherwise conduct, the Commissioner shall provide for
24 the periodic onsite review of any person or agency that
25 receives the benefits payable under this title (alone or in

1 combination with benefits payable under title II or title
2 VIII) to another individual pursuant to the appointment
3 of the person or agency as a representative payee under
4 this paragraph, section 205(j), or section 807 in any case
5 in which—

6 “(I) the representative payee is a person who
7 serves in that capacity with respect to 15 or more
8 such individuals;

9 “(II) the representative payee is a certified
10 community-based nonprofit social service agency (as
11 defined in subparagraph (I) of this paragraph or
12 section 205(j)(9)); or

13 “(III) the representative payee is an agency
14 (other than an agency described in subclause (II))
15 that serves in that capacity with respect to 50 or
16 more such individuals.

17 “(ii) Within 120 days after the end of each fiscal
18 year, the Commissioner shall submit to the Committee on
19 Ways and Means of the House of Representatives and the
20 Committee on Finance of the Senate a report on the re-
21 sults of periodic onsite reviews conducted during the fiscal
22 year pursuant to clause (i) and of any other reviews of
23 representative payees conducted during such fiscal year in
24 connection with benefits under this title. Each such report
25 shall describe in detail all problems identified in the re-

1 views and any corrective action taken or planned to be
2 taken to correct the problems, and shall include—

3 “(I) the number of the reviews;

4 “(II) the results of such reviews;

5 “(III) the number of cases in which the rep-
6 resentative payee was changed and why;

7 “(IV) the number of cases involving the exercise
8 of expedited, targeted oversight of the representative
9 payee by the Commissioner conducted upon receipt
10 of an allegation of misuse of funds, failure to pay a
11 vendor, or a similar irregularity;

12 “(V) the number of cases discovered in which
13 there was a misuse of funds;

14 “(VI) how any such cases of misuse of funds
15 were dealt with by the Commissioner;

16 “(VII) the final disposition of such cases of
17 misuse of funds, including any criminal penalties im-
18 posed; and

19 “(VIII) such other information as the Commis-
20 sioner deems appropriate.”

1 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
2 **RESENTATIVE PAYEE OF PERSONS CON-**
3 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
4 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
5 **ING PROSECUTION, CUSTODY, OR CONFINEMENT.**
6

7 (a) TITLE II AMENDMENTS.—Section 205(j)(2) of
8 the Social Security Act (42 U.S.C. 405(j)(2)) is amend-
9 ed—

10 (1) in subparagraph (B)(i)—

11 (A) by striking “and” at the end of sub-
12 clause (III);

13 (B) by redesignating subclause (IV) as
14 subclause (VI); and

15 (C) by inserting after subclause (III) the
16 following new subclauses:

17 “(IV) obtain information concerning whether
18 such person has been convicted of any other offense
19 under Federal or State law which resulted in impris-
20 onment for more than 1 year;

21 “(V) obtain information concerning whether
22 such person is a person described in section
23 202(x)(1)(A)(iv); and”;

24 (2) in subparagraph (B), by adding at the end
25 the following new clause:

1 “(iii) Notwithstanding the provisions of section 552a
2 of title 5, United States Code, or any other provision of
3 Federal or State law (other than section 6103 of the Inter-
4 nal Revenue Code of 1986 and section 1106(e) of this
5 Act), the Commissioner shall furnish any Federal, State,
6 or local law enforcement officer, upon the written request
7 of the officer, with the current address, social security ac-
8 count number, and photograph (if applicable) of any per-
9 son investigated under this paragraph, if the officer fur-
10 nishes the Commissioner with the name of such person
11 and such other identifying information as may reasonably
12 be required by the Commissioner to establish the unique
13 identity of such person, and notifies the Commissioner
14 that—

15 “(I) such person is described in section
16 202(x)(1)(A)(iv),

17 “(II) such person has information that is nec-
18 essary for the officer to conduct the officer’s official
19 duties, and

20 “(III) the location or apprehension of such per-
21 son is within the officer’s official duties.”;

22 (3) in subparagraph (C)(i)(II), by striking
23 “subparagraph (B)(i)(IV),” and inserting “subpara-
24 graph (B)(i)(VI)” and striking “section

1 1631(a)(2)(B)(ii)(IV)” and inserting “section

2 1631(a)(2)(B)(ii)(VI)”;

3 (4) in subparagraph (C)(i)—

4 (A) by striking “or” at the end of sub-
5 clause (II);

6 (B) by striking the period at the end of
7 subclause (III) and inserting a comma; and

8 (C) by adding at the end the following new
9 subclauses:

10 “(IV) such person has previously been convicted
11 as described in subparagraph (B)(i)(IV), unless the
12 Commissioner determines that such certification
13 would be appropriate notwithstanding such convic-
14 tion; or

15 “(V) such person is person described in section
16 202(x)(1)(A)(iv).”.

17 (b) TITLE VIII AMENDMENTS.—Section 807 of such
18 Act (42 U.S.C. 1007) is amended—

19 (1) in subsection (b)(2)—

20 (A) by striking “and” at the end of sub-
21 paragraph (C);

22 (B) by redesignating subparagraph (D) as
23 subparagraph (F); and

24 (C) by inserting after subparagraph (C)
25 the following new subparagraphs:

1 “(D) obtain information concerning wheth-
2 er such person has been convicted of any other
3 offense under Federal or State law which re-
4 sulted in imprisonment for more than 1 year;

5 “(E) obtain information concerning wheth-
6 er such person is a person described in section
7 804(a)(2); and”;

8 (2) in subsection (b); by adding at the end the
9 following new paragraph:

10 “(3) Notwithstanding the provisions of section
11 552a of title 5, United States Code; or any other
12 provision of Federal or State law (other than section
13 6103 of the Internal Revenue Code of 1986 and sec-
14 tion 1106(e) of this Act), the Commissioner shall
15 furnish any Federal, State, or local law enforcement
16 officer, upon the written request of the officer, with
17 the current address, social security account number,
18 and photograph (if applicable) of any person inves-
19 tigated under this subsection; if the officer furnishes
20 the Commissioner with the name of such person and
21 such other identifying information as may reason-
22 ably be required by the Commissioner to establish
23 the unique identity of such person; and notifies the
24 Commissioner that—

1 ~~“(A) such person is described in section~~
2 ~~804(a)(2),~~

3 ~~“(B) such person has information that is~~
4 ~~necessary for the officer to conduct the officer’s~~
5 ~~official duties, and~~

6 ~~“(C) the location or apprehension of such~~
7 ~~person is within the officer’s official duties.”;~~
8 ~~and~~

9 ~~(3) in subsection (d)(1)—~~

10 (A) by striking “or” at the end of subpara-
11 graph (B);

12 (B) by striking the period at the end of
13 subparagraph (C) and inserting a semicolon;
14 and

15 (C) by adding at the end the following new
16 subparagraphs:

17 ~~“(D) such person has previously been con-~~
18 ~~victed as described in subsection (b)(2)(D), un-~~
19 ~~less the Commissioner determines that such~~
20 ~~payment would be appropriate notwithstanding~~
21 ~~such conviction; or~~

22 ~~“(E) such person is a person described in~~
23 ~~section 804(a)(2).”.~~

1 (e) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is
3 amended—

4 (1) in clause (ii)—

5 (A) by striking “and” at the end of sub-
6 clause (III);

7 (B) by redesignating subclause (IV) as
8 subclause (VI); and

9 (C) by inserting after subclause (III) the
10 following new subclauses:

11 “(IV) obtain information concerning whether
12 the person has been convicted of any other offense
13 under Federal or State law which resulted in impris-
14 onment for more than 1 year;

15 “(V) obtain information concerning whether
16 such person is a person described in section
17 1611(e)(4)(A); and”;

18 (2) in clause (iii)(II)—

19 (A) by striking “clause (ii)(IV)” and in-
20 serting “clause (ii)(VI)”; and

21 (B) by striking “section
22 205(j)(2)(B)(i)(IV)” and inserting “section
23 205(j)(2)(B)(i)(VI)”;

24 (3) in clause (iii)—

1 (A) by striking “or” at the end of sub-
2 clause (H);

3 (B) by striking the period at the end of
4 subclause (III) and inserting a semicolon; and

5 (C) by adding at the end the following new
6 subclauses:

7 “(IV) the person has previously been convicted
8 as described in clause (ii)(IV) of this subparagraph,
9 unless the Commissioner determines that the pay-
10 ment would be appropriate notwithstanding the con-
11 viction; or

12 “(V) such person is a person described in sec-
13 tion 1611(e)(4)(A).”;

14 (4) by adding at the end the following new
15 clause:

16 “(xiv) Notwithstanding the provisions of section 552a
17 of title 5, United States Code, or any other provision of
18 Federal or State law (other than section 6103 of the Inter-
19 nal Revenue Code of 1986 and section 1106(e) of this
20 Act), the Commissioner shall furnish any Federal, State,
21 or local law enforcement officer, upon the written request
22 of the officer, with the current address, social security ac-
23 count number, and photograph (if applicable) of any per-
24 son investigated under this subparagraph, if the officer
25 furnishes the Commissioner with the name of such person

1 and such other identifying information as may reasonably
2 be required by the Commissioner to establish the unique
3 identity of such person, and notifies the Commissioner
4 that—

5 “(I) such person is described in section
6 1611(c)(4)(A),

7 “(II) such person has information that is nec-
8 essary for the officer to conduct the officer’s official
9 duties; and

10 “(III) the location or apprehension of such per-
11 son is within the officer’s official duties.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the first day of the thir-
14 teenth month beginning after the date of the enactment
15 of this Act.

16 (e) REPORT TO THE CONGRESS.—The Commissioner
17 of Social Security, in consultation with the Inspector Gen-
18 eral of the Social Security Administration, shall prepare
19 a report evaluating whether the existing procedures and
20 reviews for the qualification (including disqualification) of
21 representative payees are sufficient to enable the Commis-
22 sioner to protect benefits from being misused by represent-
23 ative payees. The Commissioner shall submit the report
24 to the Committee on Ways and Means of the House of
25 Representatives and the Committee on Finance of the

1 Senate no later than 270 days after the date of the enact-
2 ment of this Act. The Commissioner shall include in such
3 report any recommendations that the Commissioner con-
4 siders appropriate.

5 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE**
6 **BY REPRESENTATIVE PAYEES.**

7 (a) **TITLE II AMENDMENTS.**—Section 205(j)(4)(A)(i)
8 of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is
9 amended—

10 (1) in the first sentence, by striking “A” and
11 inserting “Except as provided in the next sentence,
12 a”; and

13 (2) in the second sentence, by striking “The
14 Secretary” and inserting the following:

15 “A qualified organization may not collect a fee from an
16 individual for any month with respect to which the Com-
17 missioner of Social Security or a court of competent juris-
18 diction has determined that the organization misused all
19 or part of the individual’s benefit, and any amount so col-
20 lected by the qualified organization for such month shall
21 be treated as a misused part of the individual’s benefit
22 for purposes of paragraphs (5) and (6). The Commis-
23 sioner”.

1 (b) TITLE XVI AMENDMENTS.—Section
2 1631(a)(2)(D)(i) of such Act (42
3 U.S.C. 1383(a)(2)(D)(i)) is amended—

4 (1) in the first sentence, by striking “A” and
5 inserting “Except as provided in the next sentence,
6 a”; and

7 (2) in the second sentence, by striking “The
8 Commissioner” and inserting the following: “A
9 qualified organization may not collect a fee from an
10 individual for any month with respect to which the
11 Commissioner of Social Security or a court of com-
12 petent jurisdiction has determined that the organiza-
13 tion misused all or part of the individual’s benefit,
14 and any amount so collected by the qualified organi-
15 zation for such month shall be treated as a misused
16 part of the individual’s benefit for purposes of sub-
17 paragraphs (E) and (F). The Commissioner”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any month involving benefit mis-
20 use by a representative payee in any case with respect to
21 which the Commissioner of Social Security or a court of
22 competent jurisdiction makes the determination of misuse
23 after 180 days after the date of the enactment of this Act.

1 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR**
2 **MISUSED BENEFITS.**

3 (a) **TITLE II AMENDMENTS.**—Section 205(j) of the
4 Social Security Act (42 U.S.C. 405(j)) (as amended by
5 sections 101 and 102) is amended further—

6 (1) by redesignating paragraphs (7), (8), and
7 (9) as paragraphs (8), (9), and (10), respectively;

8 (2) in paragraphs (2)(C)(v), (3)(F), and (4)(B),
9 by striking “paragraph (9)” and inserting “para-
10 graph (10)”;

11 (3) in paragraph (6)(A)(ii), by striking “para-
12 graph (9)” and inserting “paragraph (10)”;

13 (4) by inserting after paragraph (6) the fol-
14 lowing new paragraph:

15 “(7)(A) If the Commissioner of Social Security or a
16 court of competent jurisdiction determines that a rep-
17 resentative payee that is not a Federal, State, or local gov-
18 ernment agency has misused all or part of an individual’s
19 benefit that was paid to such representative payee under
20 this subsection, the representative payee shall be liable for
21 the amount misused, and such amount (to the extent not
22 repaid by the representative payee) shall be treated as an
23 overpayment of benefits under this title to the representa-
24 tive payee for all purposes of this Act and related laws
25 pertaining to the recovery of such overpayments. Subject
26 to subparagraph (B), upon recovering all or any part of

1 such amount, the Commissioner shall certify an amount
 2 equal to the recovered amount for payment to such indi-
 3 vidual or such individual's alternative representative
 4 payee.

5 “(B) The total of the amount certified for payment
 6 to such individual or such individual's alternative rep-
 7 resentative payee under subparagraph (A) and the amount
 8 certified for payment under paragraph (5) may not exceed
 9 the total benefit amount misused by the representative
 10 payee with respect to such individual.”.

11 (b) TITLE VIII AMENDMENT.—Section 807 of such
 12 Act (as amended by section 102(b)(2)) is amended further
 13 by adding at the end the following new subsection:

14 “(1) LIABILITY FOR MISUSED AMOUNTS.—

15 “(1) IN GENERAL.—If the Commissioner of So-
 16 cial Security or a court of competent jurisdiction de-
 17 termines that a representative payee that is not a
 18 Federal, State, or local government agency has mis-
 19 used all or part of a qualified individual's benefit
 20 that was paid to such representative payee under
 21 this section, the representative payee shall be liable
 22 for the amount misused, and such amount (to the
 23 extent not repaid by the representative payee) shall
 24 be treated as an overpayment of benefits under this
 25 title to the representative payee for all purposes of

1 this Act and related laws pertaining to the recovery
2 of such overpayments. Subject to paragraph (2),
3 upon recovering all or any part of such amount, the
4 Commissioner shall make payment of an amount
5 equal to the recovered amount to such qualified indi-
6 vidual or such qualified individual's alternative rep-
7 resentative payee.

8 “(2) LIMITATION.—The total of the amount
9 paid to such individual or such individual's alter-
10 native representative payee under paragraph (1) and
11 the amount paid under subsection (i) may not ex-
12 ceed the total benefit amount misused by the rep-
13 resentative payee with respect to such individual.”

14 (e) TITLE XVI AMENDMENTS.—Section 1631(a)(2)
15 of such Act (42 U.S.C. 1383(a)(2)) (as amended by sec-
16 tion 102(b)(3)) is amended further—

17 (1) in subparagraph (G)(i)(II), by striking “see-
18 tion 205(j)(9)” and inserting “section 205(j)(10)”;
19 and

20 (2) by striking subparagraph (H) and inserting
21 the following:

22 “(H)(i) If the Commissioner of Social Security or a
23 court of competent jurisdiction determines that a rep-
24 resentative payee that is not a Federal, State, or local gov-
25 ernment agency has misused all or part of an individual's

1 benefit that was paid to the representative payee under
2 this paragraph, the representative payee shall be liable for
3 the amount misused, and the amount (to the extent not
4 repaid by the representative payee) shall be treated as an
5 overpayment of benefits under this title to the representa-
6 tive payee for all purposes of this Act and related laws
7 pertaining to the recovery of the overpayments. Subject
8 to clause (ii), upon recovering all or any part of the
9 amount, the Commissioner shall make payment of an
10 amount equal to the recovered amount to such individual
11 or such individual's alternative representative payee.

12 “(ii) The total of the amount paid to such individual
13 or such individual's alternative representative payee under
14 clause (i) and the amount paid under subparagraph (E)
15 may not exceed the total benefit amount misused by the
16 representative payee with respect to such individual.”.

17 (d) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to benefit misuse by a representa-
19 tive payee in any case with respect to which the Commis-
20 sioner of Social Security or a court of competent jurisdic-
21 tion makes the determination of misuse after 180 days
22 after the date of the enactment of this Act.

1 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
2 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
3 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

4 (a) **TITLE II AMENDMENTS.**—Section 205(j)(3) of
5 the Social Security Act (42 U.S.C. 405(j)(3)) (as amend-
6 ed by sections 102(a)(1)(B) and 105(a)(2)) is amended—

7 (1) by redesignating subparagraphs (E) and
8 (F) as subparagraphs (F) and (G), respectively; and

9 (2) by inserting after subparagraph (D) the fol-
10 lowing new subparagraph:

11 “(E) In any case in which the person described in
12 subparagraph (A) or (D) receiving payments on behalf of
13 another fails to submit a report required by the Commis-
14 sioner of Social Security under subparagraph (A) or (D),
15 the Commissioner may, after furnishing notice to such
16 person and the individual entitled to such payment, re-
17 quire that such person appear in person at a field office
18 of the Social Security Administration serving the area in
19 which the individual resides in order to receive such pay-
20 ments.”.

21 (b) **TITLE VIII AMENDMENTS.**—Section 807(h) of
22 such Act (42 U.S.C. 1007(h)) is amended—

23 (1) by redesignating paragraphs (3) and (4) as
24 paragraphs (4) and (5), respectively; and

25 (2) by inserting after paragraph (2) the fol-
26 lowing new paragraph:

1 “(3) AUTHORITY TO REDIRECT DELIVERY OF
2 BENEFIT PAYMENTS WHEN A REPRESENTATIVE
3 PAYEE FAILS TO PROVIDE REQUIRED ACCOUNT-
4 ING.—In any case in which the person described in
5 paragraph (1) or (2) receiving benefit payments on
6 behalf of a qualified individual fails to submit a re-
7 port required by the Commissioner of Social Secu-
8 rity under paragraph (1) or (2), the Commissioner
9 may, after furnishing notice to such person and the
10 qualified individual, require that such person appear
11 in person at a United States Government facility
12 designated by the Social Security Administration as
13 serving the area in which the qualified individual re-
14 sides in order to receive such benefit payments.”.

15 (e) TITLE XVI AMENDMENT.—Section
16 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is
17 amended by adding at the end the following new clause:

18 “(v) In any case in which the person described in
19 clause (i) or (iv) receiving payments on behalf of another
20 fails to submit a report required by the Commissioner of
21 Social Security under clause (i) or (iv), the Commissioner
22 may, after furnishing notice to the person and the indi-
23 vidual entitled to the payment, require that such person
24 appear in person at a field office of the Social Security

1 Administration serving the area in which the individual
2 resides in order to receive such payments.”.

3 (d) **EFFECTIVE DATE.**—The amendment made by
4 this section shall take effect 180 days after the date of
5 the enactment of this Act.

6 **Subtitle B—Enforcement**

7 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 8 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 9 **RESENTATIVE PAYEES.**

10 (a) **IN GENERAL.**—Section 1129(a) of the Social Se-
11 curity Act (42 U.S.C. 1320a-8) is amended by adding at
12 the end the following new paragraph:

13 “(3) Any person (including an organization, agency,
14 or other entity) who, having received, while acting in the
15 capacity of a representative payee pursuant to section
16 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
17 or XVI for the use and benefit of another individual, con-
18 verts such payment, or any part thereof, to a use that
19 such person knows or should know is other than for the
20 use and benefit of such other individual shall be subject
21 to, in addition to any other penalties that may be pre-
22 scribed by law, a civil money penalty of not more than
23 \$5,000 for each such conversion. Such person shall also
24 be subject to an assessment, in lieu of damages sustained
25 by the United States resulting from the conversion, of not

1 more than twice the amount of any payments so con-
2 verted.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply with respect to violations com-
5 mitted after the date of the enactment of this Act.

6 TITLE II—PROGRAM 7 PROTECTIONS

8 SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE- 9 SPECT TO KNOWING WITHHOLDING OF MATE- 10 RIAL FACTS.

11 (a) TREATMENT OF WITHHOLDING OF MATERIAL
12 FACTS.—

13 (1) CIVIL PENALTIES.—Section 1129(a)(1) of
14 the Social Security Act (42 U.S.C. 1320a-8(a)(1))
15 is amended—

16 (A) by striking “who” in the first sentence
17 and inserting “who—”;

18 (B) by striking “makes” in the first sen-
19 tence and all that follows through “shall be sub-
20 ject to,” and inserting the following:

21 “(A) makes, or causes to be made, a statement
22 or representation of a material fact, for use in deter-
23 mining any initial or continuing right to or the
24 amount of monthly insurance benefits under title II
25 or benefits or payments under title VIII or XVI,

1 that the person knows or should know is false or
2 misleading;

3 ~~“(B) makes such a statement or representation~~
4 ~~for such use with knowing disregard for the truth,~~
5 ~~or~~

6 ~~“(C) omits from a statement or representation~~
7 ~~for such use, or otherwise withholds disclosure of, a~~
8 ~~fact which the person knows or should know is mate-~~
9 ~~rial to the determination of any initial or continuing~~
10 ~~right to or the amount of monthly insurance benefits~~
11 ~~under title II or benefits or payments under title~~
12 ~~VIII or XVI, if the person knows, or should know,~~
13 ~~that the statement or representation with such omis-~~
14 ~~sion is false or misleading or that the withholding of~~
15 ~~such disclosure is misleading;~~

16 shall be subject to,”;

17 (C) by inserting “or each receipt of such
18 benefits or payments while withholding disclo-
19 sure of such fact” after “each such statement
20 or representation” in the first sentence;

21 (D) by inserting “or because of such with-
22 holding of disclosure of a material fact” after
23 “because of such statement or representation”
24 in the second sentence; and

1 (E) by inserting “or such a withholding of
2 disclosure” after “such a statement or rep-
3 resentation” in the second sentence.

4 (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-
5 ING PENALTIES.—Section 1129A(a) of such Act (~~42~~
6 U.S.C. ~~1320a-8a(a)~~) is amended—

7 (A) by striking “who” the first place it ap-
8 pears and inserting “who—”; and

9 (B) by striking “makes” and all that fol-
10 lows through “shall be subject to,” and insert-
11 ing the following:

12 “~~(1)~~ makes, or causes to be made, a statement
13 or representation of a material fact, for use in deter-
14 mining any initial or continuing right to or the
15 amount of monthly insurance benefits under title II
16 or benefits or payments under title XVI that the
17 person knows or should know is false or misleading;

18 “~~(2)~~ makes such a statement or representation
19 for such use with knowing disregard for the truth,
20 or

21 “~~(3)~~ omits from a statement or representation
22 for such use, or otherwise withholds disclosure of, a
23 fact which the person knows or should know is mate-
24 rial to the determination of any initial or continuing
25 right to or the amount of monthly insurance benefits

1 under title II or benefits or payments under title
2 XVI, if the person knows, or should know, that the
3 statement or representation with such omission is
4 false or misleading or that the withholding of such
5 disclosure is misleading;
6 shall be subject to.”.

7 (b) CLARIFICATION OF TREATMENT OF RECOVERED
8 AMOUNTS.—Section 1129(e)(2)(B) of such Act (42
9 U.S.C. 1320a-8(e)(2)(B)) is amended by striking “In the
10 case of amounts recovered arising out of a determination
11 relating to title VIII or XVI,” and inserting “In the case
12 of any other amounts recovered under this section,”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 1129(b)(3)(A) of such Act (42
15 U.S.C. 1320a-8(b)(3)(A)) is amended by striking
16 “charging fraud or false statements”.

17 (2) Section 1129(e)(1) of such Act (42
18 U.S.C. 1320a-8(e)(1)) is amended by striking “and
19 representations” and inserting “, representations, or
20 actions”.

21 (3) Section 1129(e)(1)(A) of such Act (42
22 U.S.C. 1320a-8(e)(1)(A)) is amended by striking
23 “statement or representation referred to in sub-
24 section (a) was made” and inserting “violation oc-
25 curred”.

1 (d) ~~EFFECTIVE DATE.~~—The amendments made by
2 this section shall apply with respect to violations com-
3 mitted after the date on which the Commissioner imple-
4 ments the centralized computer file described in section
5 202.

6 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**
7 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**
8 **MISSION OF REPORTS OF CHANGES IN WORK**
9 **OR EARNINGS STATUS OF DISABLED BENE-**
10 **FICIARIES.**

11 Effective as soon as possible, but not later than 1
12 year after the date of the enactment of this Act, until such
13 time as the Commissioner of Social Security implements
14 a centralized computer file recording the date of the sub-
15 mission of information by a disabled beneficiary (or rep-
16 resentative) regarding a change in the beneficiary's work
17 or earnings status, the Commissioner shall issue a receipt
18 to the disabled beneficiary (or representative) each time
19 he or she submits documentation, or otherwise reports to
20 the Commissioner, on a change in such status.

1 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
 2 **ING PROSECUTION, CUSTODY, OR CONFINEMENT,**
 3 **AND TO PERSONS VIOLATING PROBATION OR PAROLE.**
 4

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

7 (1) in the heading, by striking “Prisoners” and
 8 all that follows and inserting the following: “Prisoners,
 9 Certain Other Inmates of Publicly Funded Institutions,
 10 Fugitives, Probationers, and Parolees”;

11 (2) in paragraph (1)(A)(ii)(IV), by striking
 12 “or” at the end;

13 (3) in paragraph (1)(A)(iii), by striking the period
 14 at the end and inserting a comma;

15 (4) by inserting after paragraph (1)(A)(iii) the
 16 following:

17 “(iv) is fleeing to avoid prosecution, or custody
 18 or confinement after conviction, under the laws of
 19 the place from which the person flees, for a crime,
 20 or an attempt to commit a crime, which is a felony
 21 under the laws of the place from which the person
 22 flees, or which, in the case of the State of New Jersey,
 23 is a high misdemeanor under the laws of such
 24 State, or

25 “(v) is violating a condition of probation or parole
 26 imposed under Federal or State law.

1 In the case of an individual from whom such monthly ben-
 2 efits have been withheld pursuant to clause (iv) or (v),
 3 the Commissioner may, for good cause shown, pay such
 4 withheld benefits to the individual.”; and

5 (5) in paragraph (3), by adding at the end the
 6 following new subparagraph:

7 “(C) Notwithstanding the provisions of section 552a
 8 of title 5, United States Code, or any other provision of
 9 Federal or State law (other than section 6103 of the Inter-
 10 nal Revenue Code of 1986 and section 1106(e) of this
 11 Act), the Commissioner shall furnish any Federal, State,
 12 or local law enforcement officer, upon the written request
 13 of the officer, with the current address, Social Security
 14 number, and photograph (if applicable) of any beneficiary
 15 under this title, if the officer furnishes the Commissioner
 16 with the name of the beneficiary, and other identifying in-
 17 formation as reasonably required by the Commissioner to
 18 establish the unique identity of the beneficiary, and noti-
 19 fies the Commissioner that—

20 “(i) the beneficiary—

21 “(I) is described in clause (iv) or (v) of
 22 paragraph (1)(A); and

23 “(II) has information that is necessary for
 24 the officer to conduct the officer’s official du-
 25 ties; and

1 “(ii) the location or apprehension of the bene-
2 ficiary is within the officer’s official duties.”.

3 (b) ~~REGULATIONS.~~—Not later than the first day of
4 the first month that begins on or after the date that is
5 9 months after the date of the enactment of this Act, the
6 Commissioner of Social Security shall promulgate regula-
7 tions governing payment by the Commissioner, for good
8 cause shown, of withheld benefits, pursuant to the last
9 sentence of section 202(x)(1)(A) of the Social Security Act
10 (as amended by subsection (a)).

11 (c) ~~EFFECTIVE DATE.~~—The amendments made by
12 subsection (a) shall take effect on the first day of the first
13 month that begins on or after the date that is 9 months
14 after the date of the enactment of this Act.

15 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
16 **VIDE FOR A FEE A PRODUCT OR SERVICE**
17 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
18 **CIAL SECURITY ADMINISTRATION.**

19 (a) ~~IN GENERAL.~~—Section 1140 of the Social Secu-
20 rity Act (42 U.S.C. 1320b-10) is amended—

21 (1) in subsection (a), by adding at the end the
22 following new paragraph:

23 “(4)(A) No person shall offer, for a fee, to assist an
24 individual to obtain a product or service that the person
25 knows or should know is provided free of charge by the

1 Social Security Administration unless, at the time the
2 offer is made, the person provides to the individual to
3 whom the offer is tendered a notice that—

4 “(i) explains that the product or service is avail-
5 able free of charge from the Social Security Admin-
6 istration, and

7 “(ii) complies with standards prescribed by the
8 Commissioner of Social Security respecting the con-
9 tent of such notice and its placement, visibility, and
10 legibility.

11 “(B) Subparagraph (A) shall not apply to any offer—

12 “(i) to serve as a claimant representative in
13 connection with a claim arising under title II, title
14 VIII, or title XVI; or

15 “(ii) to prepare, or assist in the preparation of,
16 an individual’s plan for achieving self-support under
17 title XVI.”; and

18 (2) in the heading, by striking “PROHIBITION
19 OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN
20 REFERENCE” and inserting “PROHIBITIONS RELAT-
21 ING TO REFERENCES”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to offers of assistance made after
24 the sixth month ending after the Commissioner of Social
25 Security promulgates final regulations prescribing the

1 standards applicable to the notice required to be provided
2 in connection with such offer. The Commissioner shall
3 promulgate such final regulations within 1 year after the
4 date of the enactment of this Act.

5 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**
6 **AS CLAIMANT REPRESENTATIVES.**

7 Section 206(a)(1) of the Social Security Act (42
8 U.S.C. 406(a)(1)) is amended by inserting after the sec-
9 ond sentence the following: "Notwithstanding the pre-
10 eeding sentences, the Commissioner, after due notice and
11 opportunity for hearing, (A) may refuse to recognize as
12 a representative, and may disqualify a representative al-
13 ready recognized, any attorney who has been disbarred or
14 suspended from any court or bar to which he or she was
15 previously admitted to practice or who has been disquali-
16 fied from participating in or appearing before any Federal
17 program or agency, and (B) may refuse to recognize, and
18 may disqualify, as a non-attorney representative any attor-
19 ney who has been disbarred or suspended from any court
20 or bar to which he or she was previously admitted to prac-
21 tice. A representative who has been disqualified or sus-
22 pended pursuant to this section from appearing before the
23 Social Security Administration as a result of collecting or
24 receiving a fee in excess of the amount authorized shall
25 be barred from appearing before the Social Security Ad-

1 person shall be fined not more than \$3,000, imprisoned
 2 not more than 1 year, or both. In this subsection, the
 3 term 'threats of force' means threats of harm to the officer
 4 or employee of the United States or to a contractor of
 5 the Social Security Administration, or to a member of the
 6 family of such an officer or employee or contractor.'.

7 **SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**
 8 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

9 (a) IN GENERAL.—Section 1140(a)(1) of the Social
 10 Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

11 (1) in subparagraph (A), by inserting “ ‘Cen-
 12 ters for Medicare & Medicaid Services,’” after
 13 “ ‘Health Care Financing Administration,’” by
 14 striking “or ‘Medicaid,’ ” and inserting “ ‘Med-
 15 icaid’, ‘Death Benefits Update’, ‘Federal Benefit In-
 16 formation’, ‘Funeral Expenses’, or ‘Final Supple-
 17 mental Plan,’” and by inserting “ ‘CMS,’” after
 18 “ ‘HCFA,’”;

19 (2) in subparagraph (B), by inserting “Centers
 20 for Medicare & Medicaid Services,” after “Health
 21 Care Financing Administration,” each place it ap-
 22 pears; and

23 (3) in the matter following subparagraph (B),
 24 by striking “the Health Care Financing Administra-

1 tion," each place it appears and inserting "the Cen-
2 ters for Medicare & Medicaid Services,".

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to items sent after 180 days after
5 the date of the enactment of this Act.

6 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
7 **TRIAL WORK PERIOD UPON CONVICTION OF**
8 **FRAUDULENT CONCEALMENT OF WORK AC-**
9 **TIVITY.**

10 (a) **IN GENERAL.**—Section 222(c) of the Social Secu-
11 rity Act (42 U.S.C. 422(c)) is amended by adding at the
12 end the following new paragraph:

13 “(5) Upon conviction by a Federal court that an indi-
14 vidual has fraudulently concealed work activity during a
15 period of trial work from the Commissioner of Social Secu-
16 rity by—

17 “(A) providing false information to the Com-
18 missioner of Social Security as to whether the indi-
19 vidual had earnings in or for a particular period, or
20 as to the amount thereof;

21 “(B) receiving disability insurance benefits
22 under this title while engaging in work activity
23 under another identity, including under another so-
24 cial security account number or a number pur-
25 porting to be a social security account number; or

1 “(b)(1) Any Federal court, when sentencing a defend-
 2 ant convicted of an offense under subsection (a), may
 3 order, in addition to or in lieu of any other penalty author-
 4 ized by law, that the defendant make restitution to the
 5 Social Security Administration.

6 “(2) Sections 3612, 3663, and 3664 of title 18,
 7 United States Code, shall apply with respect to the
 8 issuance and enforcement of orders of restitution under
 9 this subsection. In so applying such sections, the Social
 10 Security Administration shall be considered the victim.

11 “(3) If the court does not order restitution, or orders
 12 only partial restitution, under this subsection, the court
 13 shall state on the record the reasons therefor.”

14 (b) AMENDMENTS TO TITLE VIII.—Section 807(i) of
 15 such Act (42 U.S.C. 1007(i)) is amended—

16 (1) by striking “(i) RESTITUTION.—In any case
 17 where” and inserting the following:

18 “(i) RESTITUTION.—

19 “(1) IN GENERAL.—In any case where”, and

20 (2) by adding at the end the following new
 21 paragraph:

22 “(2) COURT ORDER FOR RESTITUTION.—

23 “(A) IN GENERAL.—Any Federal court,
 24 when sentencing a defendant convicted of an of-
 25 fense under subsection (a), may order, in addi-

1 tion to or in lieu of any other penalty author-
2 ized by law, that the defendant make restitution
3 to the Social Security Administration.

4 “(B) RELATED PROVISIONS.—Sections
5 3612, 3663, and 3664 of title 18, United States
6 Code, shall apply with respect to the issuance
7 and enforcement of orders of restitution under
8 this paragraph. In so applying such sections,
9 the Social Security Administration shall be con-
10 sidered the victim.

11 “(C) STATED REASONS FOR NOT ORDER-
12 ING RESTITUTION.—If the court does not order
13 restitution, or orders only partial restitution,
14 under this paragraph, the court shall state on
15 the record the reasons therefor.”

16 (e) AMENDMENTS TO TITLE XVI.—Section 1632 of
17 such Act (42 U.S.C. 1383a) is amended—

18 (1) by redesignating subsection (b) as sub-
19 section (e); and

20 (2) by inserting after subsection (a) the fol-
21 lowing new subsection:

22 “(b)(1) Any Federal court, when sentencing a defend-
23 ant convicted of an offense under subsection (a), may
24 order, in addition to or in lieu of any other penalty author-

1 ized by law, that the defendant make restitution to the
2 Social Security Administration.

3 “(2) Sections 3612, 3663, and 3664 of title 18,
4 United States Code, shall apply with respect to the
5 issuance and enforcement of orders of restitution under
6 this subsection. In so applying such sections, the Social
7 Security Administration shall be considered the victim.

8 “(3) If the court does not order restitution, or orders
9 only partial restitution, under this subsection, the court
10 shall state on the record the reasons therefor.”

11 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-
12 TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.
13 904(b)) is amended by adding at the end the following
14 new paragraph:

15 “(3)(A) Except as provided in subparagraph (B),
16 amounts received by the Social Security Administration
17 pursuant to an order of restitution under section 208(b),
18 807(i), or 1632(b) shall be credited to a special fund es-
19 tablished in the Treasury of the United States for
20 amounts so received or recovered. The amounts so cred-
21 ited, to the extent and in the amounts provided in advance
22 in appropriations Acts, shall be available to defray ex-
23 penses incurred in carrying out titles II, VIII, and XVI.

24 “(B) Subparagraph (A) shall not apply with respect
25 to amounts received in connection with misuse by a rep-

1 representative payee (within the meaning of sections 205(j),
 2 807, and 1631(a)(2)) of funds paid as benefits under title
 3 II, VIII, or XVI. Such amounts received in connection
 4 with misuse of funds paid as benefits under title II shall
 5 be transferred to the Managing Trustee of the Federal
 6 Old-Age and Survivors Insurance Trust Fund or the Fed-
 7 eral Disability Insurance Trust Fund, as determined ap-
 8 propriate by the Commissioner of Social Security, and
 9 such amounts shall be deposited by the Managing Trustee
 10 into such Trust Fund. All other such amounts shall be
 11 deposited by the Commissioner into the general fund of
 12 the Treasury as miscellaneous receipts.”.

13 (e) EFFECTIVE DATE.—The amendments made by
 14 subsections (a), (b), and (c) shall apply with respect to
 15 violations occurring on or after the date of the enactment
 16 of this Act.

17 **TITLE III—ATTORNEY FEE PAY-**
 18 **MENT SYSTEM IMPROVE-**
 19 **MENTS**

20 **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

21 (a) IN GENERAL.—Section 206(d)(2)(A) of the Social
 22 Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

23 (1) by inserting “, except that the maximum
 24 amount of the assessment may not exceed the great-
 25 er of \$75 or the adjusted amount as provided pursu-

1 ant to the following two sentences” after “subpara-
2 graph (B)”; and

3 (2) by adding at the end the following new sen-
4 tence: “In the case of any calendar year beginning
5 after the amendments made by section 301 of the
6 Social Security Protection Act of 2003 take effect,
7 the dollar amount specified in the preceding sentence
8 (including a previously adjusted amount) shall be
9 adjusted annually under the procedures used to ad-
10 just benefit amounts under section 215(i)(2)(A)(ii);
11 except such adjustment shall be based on the higher
12 of \$75 or the previously adjusted amount that would
13 have been in effect for December of the preceding
14 year, but for the rounding of such amount pursuant
15 to the following sentence. Any amount so adjusted
16 that is not a multiple of \$1 shall be rounded to the
17 next lowest multiple of \$1, but in no case less than
18 \$75.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to fees for representa-
21 tion of claimants which are first required to be certified
22 or paid under section 206 of the Social Security Act on
23 or after the first day of the first month that begins after
24 180 days after the date of the enactment of this Act.

1 **SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**
2 **TO TITLE XVI CLAIMS.**

3 (a) **IN GENERAL.**—Section 1631(d)(2) of the Social
4 Security Act (42 U.S.C. 1383(d)(2)) is amended—

5 (1) in subparagraph (A), in the matter pre-
6 ceeding clause (i)—

7 (A) by striking “section 206(a)” and in-
8 serting “section 206”;

9 (B) by striking “(other than paragraph (4)
10 thereof)” and inserting “(other than sub-
11 sections (a)(4) and (d) thereof)”; and

12 (C) by striking “paragraph (2) thereof”
13 and inserting “such section”;

14 (2) in subparagraph (A)(i), by striking “in sub-
15 subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in
16 subparagraphs (A)(ii)(I) and (D)(i) of subsection
17 (a)(2)”, and by striking “and” at the end;

18 (3) by striking subparagraph (A)(ii) and insert-
19 ing the following:

20 “(ii) by substituting, in subsections (a)(2)(B)
21 and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A)
22 or the requirements of due process of law’ for the
23 phrase ‘subsection (g) or (h) of section 223’;

24 “(iii) by substituting, in subsection (a)(2)(C)(i),
25 the phrase ‘under title II’ for the phrase ‘under title
26 XVI’;

1 “(iv) by substituting, in subsection (b)(1)(A),
2 the phrase ‘pay the amount of such fee’ for the
3 phrase ‘certify the amount of such fee for payment’
4 and by striking, in subsection (b)(1)(A), the phrase
5 ‘or certified for payment’; and

6 “(v) by substituting, in subsection (b)(1)(B)(ii),
7 the phrase ‘deemed to be such amounts as deter-
8 mined before any applicable reduction under section
9 1631(g), and reduced by the amount of any reduc-
10 tion in benefits under this title or title II made pur-
11 suant to section 1127(a)’ for the phrase ‘determined
12 before any applicable reduction under section
13 1127(a)’; and

14 (4) by striking subparagraph (B) and inserting
15 the following new subparagraphs:

16 “(B) Subject to subparagraph (C), if the claimant is
17 determined to be entitled to past-due benefits under this
18 title and the person representing the claimant is an attor-
19 ney, the Commissioner of Social Security shall pay out of
20 such past-due benefits to such attorney an amount equal
21 to the lesser of—

22 “(i) so much of the maximum fee as does not
23 exceed 25 percent of such past-due benefits (as de-
24 termined before any applicable reduction under sec-
25 tion 1631(g) and reduced by the amount of any re-

1 duction in benefits under this title or title II pursu-
2 ant to section 1127(a)); or

3 “(ii) the amount of past-due benefits available
4 after any applicable reductions under sections
5 1631(g) and 1127(a).

6 “(C)(i) Whenever a fee for services is required to be
7 paid to an attorney from a claimant’s past-due benefits
8 pursuant to subparagraph (B), the Commissioner shall
9 impose on the attorney an assessment calculated in ac-
10 cordance with clause (ii).

11 “(ii)(I) The amount of an assessment under clause
12 (i) shall be equal to the product obtained by multiplying
13 the amount of the representative’s fee that would be re-
14 quired to be paid by subparagraph (B) before the applica-
15 tion of this subparagraph, by the percentage specified in
16 subclause (II), except that the maximum amount of the
17 assessment may not exceed \$75. In the case of any cal-
18 endar year beginning after the amendments made by sec-
19 tion 302 of the Social Security Protection Act of 2003
20 take effect, the dollar amount specified in the preceding
21 sentence (including a previously adjusted amount) shall be
22 adjusted annually under the procedures used to adjust
23 benefit amounts under section 215(i)(2)(A)(ii), except
24 such adjustment shall be based on the higher of \$75 or
25 the previously adjusted amount that would have been in

1 effect for December of the preceding year, but for the
2 rounding of such amount pursuant to the following sen-
3 tence: Any amount so adjusted that is not a multiple of
4 \$1 shall be rounded to the next lowest multiple of \$1, but
5 in no case less than \$75.

6 “(II) The percentage specified in this subclause is
7 such percentage rate as the Commissioner determines is
8 necessary in order to achieve full recovery of the costs of
9 determining and approving fees to attorneys from the
10 past-due benefits of claimants, but not in excess of 6.3
11 percent.

12 “(iii) The Commissioner may collect the assessment
13 imposed on an attorney under clause (i) by offset from
14 the amount of the fee otherwise required by subparagraph
15 (B) to be paid to the attorney from a claimant’s past-due
16 benefits.

17 “(iv) An attorney subject to an assessment under
18 clause (i) may not, directly or indirectly, request or other-
19 wise obtain reimbursement for such assessment from the
20 claimant whose claim gave rise to the assessment.

21 “(v) Assessments on attorneys collected under this
22 subparagraph shall be deposited in the Treasury in a sepa-
23 rate fund created for this purpose.

24 “(vi) The assessments authorized under this subpara-
25 graph shall be collected and available for obligation only

1 to the extent and in the amount provided in advance in
2 appropriations Acts. Amounts so appropriated are au-
3 thorized to remain available until expended, for adminis-
4 trative expenses in carrying out this title and related
5 laws.”.

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply with respect to fees for rep-
9 resentation of claimants which are first required to
10 be certified or paid under section 1631(d)(2) of the
11 Social Security Act on or after the first day of the
12 first month that begins after 270 days after the date
13 of the enactment of this Act.

14 (2) SUNSET.—Such amendments shall not
15 apply with respect to fees for representation of
16 claimants in the case of any claim for benefits with
17 respect to which the agreement for representation is
18 entered into after 5 years after the date on which
19 the Commissioner of Social Security first imple-
20 ments the amendments made by this section.

21 (c) STUDY REGARDING FEE-WITHHOLDING FOR
22 NON-ATTORNEY REPRESENTATIVES.—

23 (1) STUDY.—As soon as practicable after the
24 date of the enactment of this Act, the Comptroller
25 General of the United States shall undertake a study

1 regarding fee-withholding for non-attorney rep-
2 resentatives representing claimants before the Social
3 Security Administration.

4 (2) MATTERS TO BE STUDIED.—In conducting
5 the study under this subsection, the Comptroller
6 General shall—

7 (A) compare the non-attorney representa-
8 tives who seek fee approval for representing
9 claimants before the Social Security Adminis-
10 tration to attorney representatives who seek
11 such fee approval, with regard to—

12 (i) their training, qualifications, and
13 competency,

14 (ii) the type and quality of services
15 provided, and

16 (iii) the extent to which claimants are
17 protected through oversight of such rep-
18 resentatives by the Social Security Admin-
19 istration or other organizations, and

20 (B) consider the potential results of ex-
21 tending to non-attorney representatives the fee
22 withholding procedures that apply under titles
23 II and XVI of the Social Security Act for the
24 payment of attorney fees, including the effect
25 on claimants and program administration.

1 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
2 **IN CONNECTION WITH DEMONSTRATION**
3 **PROJECTS PROVIDING FOR REDUCTIONS IN**
4 **DISABILITY INSURANCE BENEFITS BASED ON**
5 **EARNINGS.**

6 Section 302(e) of the Ticket to Work and Work In-
7 centives Improvement Act of 1999 (42 U.S.C. 434 note)
8 is amended by striking “(42 U.S.C. 401 et seq.),” and
9 inserting “(42 U.S.C. 401 et seq.) and the requirements
10 of section 1148 of such Act (42 U.S.C. 1320b-19) as they
11 relate to the program established under title II of such
12 Act.”.

13 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
14 **VIDED FOR REDUCTIONS IN DISABILITY IN-**
15 **SURANCE BENEFITS BASED ON EARNINGS.**

16 Section 302(f) of the Ticket to Work and Work In-
17 centives Improvement Act of 1999 (42 U.S.C. 434 note)
18 is amended to read as follows:

19 “(f) **EXPENDITURES.**—Administrative expenses for
20 demonstration projects under this section shall be paid
21 from funds available for the administration of title II or
22 XVIII of the Social Security Act, as appropriate. Benefits
23 payable to or on behalf of individuals by reason of partici-
24 pation in projects under this section shall be made from
25 the Federal Disability Insurance Trust Fund and the Fed-
26 eral Old-Age and Survivors Insurance Trust Fund, as de-

1 terminated appropriate by the Commissioner of Social Secu-
 2 rity, and from the Federal Hospital Insurance Trust Fund
 3 and the Federal Supplementary Medical Insurance Trust
 4 Fund, as determined appropriate by the Secretary of
 5 Health and Human Services, from funds available for ben-
 6 efits under such title II or XVIII.”

7 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
 8 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
 9 **UALS.**

10 (a) **FEDERAL WORK INCENTIVES OUTREACH PRO-**
 11 **GRAM.—**

12 (1) **IN GENERAL.—**Section 1149(c)(2) of the
 13 Social Security Act (42 U.S.C. 1320b-20(c)(2)) is
 14 amended to read as follows:

15 “(2) **DISABLED BENEFICIARY.—**The term ‘dis-
 16 abled beneficiary’ means an individual—

17 “(A) who is a disabled beneficiary as de-
 18 fined in section 1148(k)(2) of this Act;

19 “(B) who is receiving a cash payment de-
 20 scribed in section 1616(a) of this Act or a sup-
 21 plementary payment described in section
 22 212(a)(3) of Public Law 93-66 (without regard
 23 to whether such payment is paid by the Com-
 24 missioner pursuant to an agreement under sec-

1 tion 1616(a) of this Act or under section
2 212(b) of Public Law 93-66);

3 “(C) who, pursuant to section 1619(b) of
4 this Act, is considered to be receiving benefits
5 under title XVI of this Act; or

6 “(D) who is entitled to benefits under part
7 A of title XVIII of this Act by reason of the pe-
8 nultimate sentence of section 226(b) of this
9 Act.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by this subsection shall apply with respect to grants,
12 cooperative agreements, or contracts entered into on
13 or after the date of the enactment of this Act.

14 (b) STATE GRANTS FOR WORK INCENTIVES ASSIST-
15 ANCE.—

16 (1) DEFINITION OF DISABLED BENEFICIARY.—
17 Section 1150(g)(2) of such Act (42 U.S.C. 1320b-
18 21(g)(2)) is amended to read as follows:

19 “(2) DISABLED BENEFICIARY.—The term ‘dis-
20 abled beneficiary’ means an individual—

21 “(A) who is a disabled beneficiary as de-
22 fined in section 1148(k)(2) of this Act;

23 “(B) who is receiving a cash payment de-
24 scribed in section 1616(a) of this Act or a sup-
25 plementary payment described in section

1 ~~212(a)(3)~~ of Public Law 93-66 (without regard
2 to whether such payment is paid by the Com-
3 missioner pursuant to an agreement under sec-
4 tion 1616(a) of this Act or under section
5 ~~212(b)~~ of Public Law 93-66);

6 “(C) who, pursuant to section 1619(b) of
7 this Act, is considered to be receiving benefits
8 under title XVI of this Act; or

9 “(D) who is entitled to benefits under part
10 A of title XVIII of this Act by reason of the pe-
11 nultimate sentence of section 226(b) of this
12 Act.”.

13 ~~(2) ADVOCACY OR OTHER SERVICES NEEDED~~
14 ~~TO MAINTAIN GAINFUL EMPLOYMENT.~~—Section
15 ~~1150(b)(2)~~ of such Act (~~42 U.S.C. 1320b-21(b)(2)~~)
16 is amended by striking “secure or regain” and in-
17 serting “secure, maintain, or regain”.

18 ~~(3) EFFECTIVE DATE.~~—The amendments made
19 by this subsection shall apply with respect to pay-
20 ments provided after the date of the enactment of
21 this Act.

1 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**
 2 **MENT FOR CERTAIN PURPOSES OF INDI-**
 3 **VIDUAL WORK PLANS UNDER THE TICKET TO**
 4 **WORK AND SELF-SUFFICIENCY PROGRAM.**

5 (a) **IN GENERAL.**—Section 1148(g)(1) of the Social
 6 Security Act (42 U.S.C. 1320b-19) is amended by adding
 7 at the end, after and below subparagraph (E), the fol-
 8 lowing new sentence:

9 “An individual work plan established pursuant to
 10 this subsection shall be treated, for purposes of sec-
 11 tion 51(d)(6)(B)(i) of the Internal Revenue Code of
 12 1986, as an individualized written plan for employ-
 13 ment under a State plan for vocational rehabilitation
 14 services approved under the Rehabilitation Act of
 15 1973.”

16 (b) **EFFECTIVE DATE.**—The amendment made by
 17 subsection (a) shall take effect as if included in section
 18 505 of the Ticket to Work and Work Incentives Improve-
 19 ment Act of 1999 (Public Law 106-170; 113 Stat. 1921).

20 **Subtitle B—Miscellaneous**
 21 **Amendments**

22 **SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN**
 23 **REMAND CASES FULLY FAVORABLE TO THE**
 24 **CLAIMANT.**

25 (a) **IN GENERAL.**—Section 205(g) of the Social Secu-
 26 rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-

1 tence by striking “and a transcript” and inserting “and,
2 in any case in which the Commissioner has not made a
3 decision fully favorable to the individual, a transcript”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 this section shall apply with respect to final determina-
6 tions issued (upon remand) on or after the date of the
7 enactment of this Act.

8 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
9 **FROM THE UNITED STATES.**

10 (a) **IN GENERAL.**—Paragraphs (1) and (2) of section
11 202(n) of the Social Security Act (42 U.S.C. 402(n)(1);
12 (2)) are each amended by striking “or (1)(E)”.

13 (b) **EFFECTIVE DATE.**—The amendment made by
14 this section to section 202(n)(1) of the Social Security Act
15 shall apply to individuals with respect to whom the Com-
16 missioner of Social Security receives a removal notice from
17 the Attorney General after the date of the enactment of
18 this Act. The amendment made by this section to section
19 202(n)(2) of the Social Security Act shall apply with re-
20 spect to removals occurring after the date of the enact-
21 ment of this Act.

22 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**
23 **QUIREMENTS.**

24 Section 3003(a)(1) of the Federal Reports Elimini-
25 nation and Sunset Act of 1995 (31 U.S.C. 1113 note)

1 shall not apply to any report required to be submitted
2 under any of the following provisions of law:

3 (1)(A) Section 201(e)(2) of the Social Security
4 Act (42 U.S.C. 401(e)(2)).

5 (B) Section 1817(b)(2) of the Social Security
6 Act (42 U.S.C. 1395i(b)(2)).

7 (C) Section 1841(b)(2) of the Social Security
8 Act (42 U.S.C. 1395t(b)(2)).

9 (2)(A) Section 221(e)(3)(C) of the Social Secu-
10 rity Act (42 U.S.C. 421(e)(3)(C)).

11 (B) Section 221(i)(3) of the Social Security Act
12 (42 U.S.C. 421(i)(3)).

13 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**
14 **CERTAIN SURVIVOR BENEFITS.**

15 (a) **WIDOWS.**—Section 216(e) of the Social Security
16 Act (42 U.S.C. 416(e)) is amended—

17 (1) by redesignating subclauses (A) through (C)
18 of clause (6) as subclauses (i) through (iii), respec-
19 tively;

20 (2) by redesignating clauses (1) through (6) as
21 clauses (A) through (F), respectively;

22 (3) in clause (E) (as redesignated), by inserting
23 “except as provided in paragraph (2),” before “she
24 was married”;

25 (4) by inserting “(1)” after “(e)”; and

1 (5) by adding at the end the following new
2 paragraph:

3 “(2) The requirements of paragraph (1)(E) in con-
4 nection with the surviving wife of an individual shall be
5 treated as satisfied if—

6 “(A) the individual had been married prior to
7 the individual’s marriage to the surviving wife,

8 “(B) the prior wife was institutionalized during
9 the individual’s marriage to the prior wife due to
10 mental incompetence or similar incapacity,

11 “(C) during the period of the prior wife’s insti-
12 tutionalization, the individual would have divorced
13 the prior wife and married the surviving wife, but
14 the individual did not do so because such divorce
15 would have been unlawful, by reason of the prior
16 wife’s institutionalization, under the laws of the
17 State in which the individual was domiciled at the
18 time (as determined based on evidence satisfactory
19 to the Commissioner of Social Security),

20 “(D) the prior wife continued to remain institu-
21 tionalized up to the time of her death, and

22 “(E) the individual married the surviving wife
23 within 60 days after the prior wife’s death.”

24 (b) WIDOWERS.—Section 216(g) of such Act (42
25 U.S.C. 416(g)) is amended—

1 (1) by redesignating subclauses (A) through (C)
2 of clause (6) as subclauses (i) through (iii), respec-
3 tively;

4 (2) by redesignating clauses (1) through (6) as
5 clauses (A) through (F), respectively;

6 (3) in clause (E) (as redesignated), by inserting
7 “except as provided in paragraph (2),” before “he
8 was married”;

9 (4) by inserting “(1)” after “(g)”, and

10 (5) by adding at the end the following new
11 paragraph:

12 “(2) The requirements of paragraph (1)(E) in con-
13 nection with the surviving husband of an individual shall
14 be treated as satisfied if—

15 “(A) the individual had been married prior to
16 the individual’s marriage to the surviving husband;

17 “(B) the prior husband was institutionalized
18 during the individual’s marriage to the prior hus-
19 band due to mental incompetence or similar inca-
20 pacity;

21 “(C) during the period of the prior husband’s
22 institutionalization, the individual would have di-
23 vorced the prior husband and married the surviving
24 husband, but the individual did not do so because
25 such divorce would have been unlawful, by reason of

1 the prior husband's institutionalization, under the
2 laws of the State in which the individual was domi-
3 ciled at the time (as determined based on evidence
4 satisfactory to the Commissioner of Social Security),

5 “(D) the prior husband continued to remain in-
6 stitutionalized up to the time of his death, and

7 “(E) the individual married the surviving hus-
8 band within 60 days after the prior husband's
9 death.”

10 (e) CONFORMING AMENDMENT.—Section 216(k) of
11 such Act (42 U.S.C. 416(k)) is amended by striking
12 “clause (5) of subsection (e) or clause (5) of subsection
13 (g)” and inserting “clause (E) of subsection (e)(1) or
14 clause (E) of subsection (g)(1)”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall be effective with respect to applications
17 for benefits under title II of the Social Security Act filed
18 during months ending after the date of the enactment of
19 this Act.

1 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND**
 2 **SECA TAX EXEMPTIONS FOR AN INDIVIDUAL**
 3 **WHOSE EARNINGS ARE SUBJECT TO THE**
 4 **LAWS OF A TOTALIZATION AGREEMENT**
 5 **PARTNER.**

6 Sections 1401(e), 3101(e), and 3111(e) of the Inter-
 7 nal Revenue Code of 1986 are each amended by striking
 8 “to taxes or contributions for similar purposes under” and
 9 inserting “exclusively to the laws applicable to”.

10 **SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYS-**
 11 **TEM FOR PUBLIC EMPLOYEES IN KENTUCKY.**

12 (a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social
 13 Security Act (42 U.S.C. 418(d)(6)(C)) is amended by in-
 14 serting “Kentucky,” after “Illinois,”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
 16 subsection (a) takes effect on January 1, 2003.

17 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY AD-**
 18 **VISORY BOARD.**

19 (a) **IN GENERAL.**—Subsection (f) of section 703 of
 20 the Social Security Act (42 U.S.C. 903(f)) is amended to
 21 read as follows:

22 “Compensation, Expenses, and Per Diem

23 “(f) A member of the Board shall, for each day (in-
 24 cluding traveltime) during which the member is attending
 25 meetings or conferences of the Board or otherwise engaged
 26 in the business of the Board, be compensated at the daily

1 rate of basic pay for level IV of the Executive Schedule.
2 While serving on business of the Board away from their
3 homes or regular places of business, members may be al-
4 lowed travel expenses, including per diem in lieu of sub-
5 sistence, as authorized by section 5703 of title 5, United
6 States Code, for persons in the Government employed
7 intermittently.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall be effective as of January 1, 2003.

10 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
11 **MENT FOR APPLICATION OF GOVERNMENT**
12 **PENSION OFFSET EXEMPTION.**

13 (a) WIFE’S INSURANCE BENEFITS.—Section
14 202(b)(4)(A) of the Social Security Act (42 U.S.C.
15 402(b)(4)(A)) is amended by striking “if, on” and insert-
16 ing “if, during any portion of the last 60 months of such
17 service ending with”.

18 (b) HUSBAND’S INSURANCE BENEFITS.—Section
19 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is
20 amended by striking “if, on” and inserting “if, during any
21 portion of the last 60 months of such service ending with”.

22 (c) WIDOW’S INSURANCE BENEFITS.—Section
23 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is
24 amended by striking “if, on” and inserting “if, during any
25 portion of the last 60 months of such service ending with”.

1 (d) WIDOWER'S INSURANCE BENEFITS.—Section
2 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is
3 amended by striking “if, on” and inserting “if, during any
4 portion of the last 60 months of such service ending with”.

5 (e) MOTHER'S AND FATHER'S INSURANCE BENE-
6 FITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C.
7 402(g)(4)(A)) is amended by striking “if, on” and insert-
8 ing “if, during any portion of the last 60 months of such
9 service ending with”.

10 (f) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to applications for
12 benefits under title II of the Social Security Act filed on
13 or after the first day of the first month that begins after
14 the date of the enactment of this Act, except that such
15 amendments shall not apply in connection with monthly
16 periodic benefits of any individual based on earnings while
17 in service described in section 202(b)(4)(A), 202(c)(2)(A),
18 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act
19 (in the matter preceding clause (i) thereof)—

20 (1) if the last day of such service occurs before
21 the end of the 90-day period following the date of
22 the enactment of this Act, or

23 (2) in any case in which the last day of such
24 service occurs after the end of such 90-day period,
25 such individual performed such service during such

1 90-day period which constituted "employment" as
 2 defined in section 210 of such Act, and all such
 3 service subsequently performed by such individual
 4 has constituted such "employment".

5 **Subtitle C—Technical Amendments**

6 **SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-** 7 **SIBLE AGENCY HEAD.**

8 Section 1143 of the Social Security Act (42
 9 U.S.C. 1320b-13) is amended—

10 (1) by striking "Secretary" the first place it ap-
 11 pears and inserting "Commissioner of Social Secu-
 12 rity"; and

13 (2) by striking "Secretary" each subsequent
 14 place it appears and inserting "Commissioner".

15 **SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-** 16 **MENT BENEFITS OF MINISTERS.**

17 (a) ~~IN GENERAL.~~ Section 211(a)(7) of the Social
 18 Security Act (42 U.S.C. 411(a)(7)) is amended by insert-
 19 ing " , but shall not include in any such net earnings from
 20 self-employment the rental value of any parsonage or any
 21 parsonage allowance (whether or not excluded under sec-
 22 tion 107 of the Internal Revenue Code of 1986) provided
 23 after the individual retires, or any other retirement benefit
 24 received by such individual from a church plan (as defined

1 in section 414(e) of such Code) after the individual re-
2 tires” before the semicolon.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to years beginning before, on, or
5 after December 31, 1994.

6 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
7 **TIC EMPLOYMENT.**

8 (a) **AMENDMENT TO INTERNAL REVENUE CODE.**—
9 Section 3121(a)(7)(B) of the Internal Revenue Code of
10 1986 is amended by striking “described in subsection
11 (g)(5)” and inserting “on a farm operated for profit”.

12 (b) **AMENDMENT TO SOCIAL SECURITY ACT.**—Sec-
13 tion 209(a)(6)(B) of the Social Security Act (42
14 U.S.C. 409(a)(6)(B)) is amended by striking “described
15 in section 210(f)(5)” and inserting “on a farm operated
16 for profit”.

17 (c) **CONFORMING AMENDMENT.**—Section 3121(g)(5)
18 of such Code and section 210(f)(5) of such Act (42
19 U.S.C. 410(f)(5)) are amended by striking “or is domes-
20 tic service in a private home of the employer”.

21 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**
22 **ERENCES.**

23 (a) **CORRECTION OF TERMINOLOGY AND CITATIONS**
24 **RESPECTING REMOVAL FROM THE UNITED STATES.**—
25 Section 202(n) of the Social Security Act (42

1 U.S.C. 402(n)) (as amended by section 412) is amended
2 further—

3 (1) by striking “deportation” each place it ap-
4 pears and inserting “removal”;

5 (2) by striking “deported” each place it appears
6 and inserting “removed”;

7 (3) in paragraph (1) (in the matter preceding
8 subparagraph (A)), by striking “under section
9 241(a) (other than under paragraph (1)(C) there-
10 of)” and inserting “under section 237(a) (other than
11 paragraph (1)(C) thereof) or 212(a)(6)(A)”;

12 (4) in paragraph (2), by striking “under any of
13 the paragraphs of section 241(a) of the Immigration
14 and Nationality Act (other than under paragraph
15 (1)(C) thereof)” and inserting “under any of the
16 paragraphs of section 237(a) of the Immigration and
17 Nationality Act (other than paragraph (1)(C) there-
18 of) or under section 212(a)(6)(A) of such Act”;

19 (5) in paragraph (3)—

20 (A) by striking “paragraph (19) of section
21 241(a)” and inserting “subparagraph (D) of
22 section 237(a)(4)”;

23 (B) by striking “paragraph (19)” and in-
24 serting “subparagraph (D)”;

1 (6) in the heading, by striking “Deportation”
2 and inserting “Removal”.

3 (b) CORRECTION OF CITATION RESPECTING THE
4 TAX DEDUCTION RELATING TO HEALTH INSURANCE
5 COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section
6 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amend-
7 ed by striking “section 162(m)” and inserting “section
8 162(l)”.

9 (c) ELIMINATION OF REFERENCE TO OBSOLETE 20-
10 DAY AGRICULTURAL WORK TEST.—Section 3102(a) of
11 the Internal Revenue Code of 1986 is amended by striking
12 “and the employee has not performed agricultural labor
13 for the employer on 20 days or more in the calendar year
14 for cash remuneration computed on a time basis”.

15 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**
16 **PLOYMENT INCOME IN COMMUNITY PROP-**
17 **ERTY STATES.**

18 (a) SOCIAL SECURITY ACT AMENDMENT.—Section
19 211(a)(5)(A) of the Social Security Act (42
20 U.S.C. 411(a)(5)(A)) is amended by striking “all of the
21 gross income” and all that follows and inserting “the gross
22 income and deductions attributable to such trade or busi-
23 ness shall be treated as the gross income and deductions
24 of the spouse carrying on such trade or business or, if
25 such trade or business is jointly operated, treated as the

1 gross income and deductions of each spouse on the basis
 2 of their respective distributive share of the gross income
 3 and deductions;”.

4 (b) INTERNAL REVENUE CODE OF 1986 AMEND-
 5 MENT.—Section 1402(a)(5)(A) of the Internal Revenue
 6 Code of 1986 is amended by striking “all of the gross in-
 7 come” and all that follows and inserting “the gross income
 8 and deductions attributable to such trade or business shall
 9 be treated as the gross income and deductions of the
 10 spouse carrying on such trade or business or, if such trade
 11 or business is jointly operated, treated as the gross income
 12 and deductions of each spouse on the basis of their respec-
 13 tive distributive share of the gross income and deductions;
 14 and”.

15 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

16 (a) *SHORT TITLE.*—*This Act may be cited as the “So-*
 17 *cial Security Protection Act of 2003”.*

18 (b) *TABLE OF CONTENTS.*—*The table of contents is as*
 19 *follows:*

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

- Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.*
- Sec. 107. Survey of use of payments by representative payees.*

Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.*

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.*
- Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.*
- Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.*
- Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.*
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.*
- Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.*
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.*
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.*
- Sec. 209. Authority for judicial orders of restitution.*
- Sec. 210. Information for administration of provisions related to noncovered employment.*
- Sec. 211. Cross-program recovery of overpayments.*
- Sec. 212. Prohibition on payment of title II benefits to persons not authorized to work in the United States.*

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.*
- Sec. 302. GAO study of fee payment process for claimant representatives.*

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Elimination of demonstration authority sunset date.*
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.*
- Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.*
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.*
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.*

Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.*
- Sec. 412. Nonpayment of benefits upon removal from the United States.*
- Sec. 413. Reinstatement of certain reporting requirements.*
- Sec. 414. Clarification of definitions regarding certain survivor benefits.*
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.*
- Sec. 416. Coverage under divided retirement system for public employees.*
- Sec. 417. Compensation for the Social Security Advisory Board.*
- Sec. 418. 60-month period of employment requirement for government pension offset exemption.*
- Sec. 419. Post-1956 Military Wage Credits.*

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.*
- Sec. 422. Technical correction relating to retirement benefits of ministers.*
- Sec. 423. Technical corrections relating to domestic employment.*
- Sec. 424. Technical corrections of outdated references.*
- Sec. 425. Technical correction respecting self-employment income in community property States.*
- Sec. 426. Technical amendments to the Railroad Retirement and Survivors Improvement Act of 2001.*

Subtitle D—Amendments Related to Title XVI

- Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.*
- Sec. 431. Uniform 9-month resource exclusion periods.*
- Sec. 432. Modification of dedicated account requirements.*
- Sec. 433. Elimination of certain restrictions on the application of the student earned income exclusion.*
- Sec. 434. Exclusion of Americorps and other volunteer benefits for purposes of determining supplemental security income eligibility and benefit amounts and social security disability insurance entitlement.*
- Sec. 435. Exception to retrospective monthly accounting for nonrecurring income.*
- Sec. 436. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.*
- Sec. 437. Treatment of education-related income and resources.*
- Sec. 438. Monthly treatment of uniformed service compensation.*
- Sec. 439. Update of resource limits.*
- Sec. 440. Review of State agency blindness and disability determinations.*

1 **TITLE I—PROTECTION OF**
2 **BENEFICIARIES**

3 **Subtitle A—Representative Payees**

4 **SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY**
5 **ORGANIZATIONAL REPRESENTATIVE PAYEES.**

6 (a) *TITLE II AMENDMENTS.—*

7 (1) *REISSUANCE OF BENEFITS.—Section*
8 *205(j)(5) of the Social Security Act (42*
9 *U.S.C. 405(j)(5)) is amended by inserting after the*
10 *first sentence the following: “In any case in which a*
11 *representative payee that—*

12 *“(A) is not an individual (regardless of whether*
13 *it is a ‘qualified organization’ within the meaning of*
14 *paragraph (4)(B)); or*

15 *“(B) is an individual who, for any month dur-*
16 *ing a period when misuse occurs, serves 15 or more*
17 *individuals who are beneficiaries under this title, title*
18 *VIII, title XVI, or any combination of such titles;*

19 *misuses all or part of an individual’s benefit paid to such*
20 *representative payee, the Commissioner of Social Security*
21 *shall certify for payment to the beneficiary or the bene-*
22 *ficiary’s alternative representative payee an amount equal*
23 *to the amount of such benefit so misused. The provisions*
24 *of this paragraph are subject to the limitations of para-*
25 *graph (7)(B).”.*

1 (2) *MISUSE OF BENEFITS DEFINED.*—Section
2 205(j) of such Act (42 U.S.C. 405(j)) is amended by
3 adding at the end the following:

4 “(8) For purposes of this subsection, misuse of benefits
5 by a representative payee occurs in any case in which the
6 representative payee receives payment under this title for
7 the use and benefit of another person and converts such pay-
8 ment, or any part thereof, to a use other than for the use
9 and benefit of such other person. The Commissioner of So-
10 cial Security may prescribe by regulation the meaning of
11 the term ‘use and benefit’ for purposes of this paragraph.”.

12 (b) *TITLE VIII AMENDMENTS.*—

13 (1) *REISSUANCE OF BENEFITS.*—Section
14 807(i)(1) of the Social Security Act (42
15 U.S.C. 1007(i)) (as amended by section 209(b)(1) of
16 this Act) is amended further by inserting after the
17 first sentence the following: “In any case in which a
18 representative payee that—

19 “(A) is not an individual; or

20 “(B) is an individual who, for any month
21 during a period when misuse occurs, serves 15 or
22 more individuals who are beneficiaries under
23 this title, title II, title XVI, or any combination
24 of such titles;

1 *misuses all or part of an individual's benefit paid to*
2 *such representative payee, the Commissioner of Social*
3 *Security shall pay to the beneficiary or the bene-*
4 *ficiary's alternative representative payee an amount*
5 *equal to the amount of such benefit so misused. The*
6 *provisions of this paragraph are subject to the limita-*
7 *tions of subsection (l)(2)."*

8 (2) *MISUSE OF BENEFITS DEFINED.*—Section
9 807 of such Act (42 U.S.C. 1007) is amended by add-
10 *ing at the end the following:*

11 “(j) *MISUSE OF BENEFITS.*—For purposes of this title,
12 *misuse of benefits by a representative payee occurs in any*
13 *case in which the representative payee receives payment*
14 *under this title for the use and benefit of another person*
15 *under this title and converts such payment, or any part*
16 *thereof, to a use other than for the use and benefit of such*
17 *person. The Commissioner of Social Security may prescribe*
18 *by regulation the meaning of the term ‘use and benefit’ for*
19 *purposes of this subsection.”*

20 (3) *TECHNICAL AMENDMENT.*—Section 807(a) of
21 such Act (42 U.S.C. 1007(a)) is amended, in the first
22 sentence, by striking “for his or her benefit” and in-
23 scribing “for his or her use and benefit”.

24 (c) *TITLE XVI AMENDMENTS.*—

1 (1) *REISSUANCE OF BENEFITS.*—Section
2 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E))
3 is amended by inserting after the first sentence the
4 following: “In any case in which a representative
5 payee that—

6 “(i) is not an individual (regardless of whether
7 it is a ‘qualified organization’ within the meaning of
8 subparagraph (D)(ii)); or

9 “(ii) is an individual who, for any month dur-
10 ing a period when misuse occurs, serves 15 or more
11 individuals who are beneficiaries under this title, title
12 II, title VIII, or any combination of such titles;
13 misuses all or part of an individual’s benefit paid to such
14 representative payee, the Commissioner of Social Security
15 shall pay to the beneficiary or the beneficiary’s alternative
16 representative payee an amount equal to the amount of such
17 benefit so misused. The provisions of this subparagraph are
18 subject to the limitations of subparagraph (H)(ii).”.

19 (2) *EXCLUSION OF REISSUED BENEFITS FROM*
20 *RESOURCES.*—Section 1613(a) of such Act (42
21 U.S.C. 1382b(a)) is amended—

22 (A) in paragraph (12), by striking “and”
23 at the end;

24 (B) in paragraph (13), by striking the pe-
25 riod and inserting “; and”; and

1 (C) by inserting after paragraph (13) the
2 following:

3 “(14) for the 9-month period beginning after the
4 month in which received, any amount received by
5 such individual (or spouse) or any other person whose
6 income is deemed to be included in such individual’s
7 (or spouse’s) income for purposes of this title as res-
8 titution for benefits under this title, title II, or title
9 VIII that a representative payee of such individual
10 (or spouse) or such other person under section 205(j),
11 807, or 1631(a)(2) has misused.”.

12 (3) MISUSE OF BENEFITS DEFINED.—Section
13 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A))
14 is amended by adding at the end the following:

15 “(iv) For purposes of this paragraph, misuse of bene-
16 fits by a representative payee occurs in any case in which
17 the representative payee receives payment under this title
18 for the use and benefit of another person and converts such
19 payment, or any part thereof, to a use other than for the
20 use and benefit of such other person. The Commissioner of
21 Social Security may prescribe by regulation the meaning
22 of the term ‘use and benefit’ for purposes of this clause.”.

23 (d) EFFECTIVE DATE.—The amendments made by this
24 section shall apply to any case of benefit misuse by a rep-
25 resentative payee with respect to which the Commissioner

1 of Social Security makes the determination of misuse on
2 or after January 1, 1995.

3 **SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.**

4 (a) *CERTIFICATION OF BONDING AND LICENSING RE-*
5 *QUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL*
6 *REPRESENTATIVE PAYEES.—*

7 (1) *TITLE II AMENDMENTS.—Section 205(j) of*
8 *the Social Security Act (42 U.S.C. 405(j)) is amend-*
9 *ed—*

10 (A) *in paragraph (2)(C)(v), by striking “a*
11 *community-based nonprofit social service agency*
12 *licensed or bonded by the State” in subclause (I)*
13 *and inserting “a certified community-based non-*
14 *profit social service agency (as defined in para-*
15 *graph (9))”;*

16 (B) *in paragraph (3)(F), by striking “com-*
17 *munity-based nonprofit social service agencies”*
18 *and inserting “certified community-based non-*
19 *profit social service agencies (as defined in para-*
20 *graph (9))”;*

21 (C) *in paragraph (4)(B), by striking “any*
22 *community-based nonprofit social service agency*
23 *which is bonded or licensed in each State in*
24 *which it serves as a representative payee” and*
25 *inserting “any certified community-based non-*

1 *profit social service agency (as defined in para-*
2 *graph (9))”;* and

3 (D) *by adding after paragraph (8) (as*
4 *added by section 101(a)(2) of this Act) the fol-*
5 *lowing:*

6 “(9) *For purposes of this subsection, the term ‘certified*
7 *community-based nonprofit social service agency’ means a*
8 *community-based nonprofit social service agency which is*
9 *in compliance with requirements, under regulations which*
10 *shall be prescribed by the Commissioner, for annual certifi-*
11 *cation to the Commissioner that it is bonded in accordance*
12 *with requirements specified by the Commissioner and that*
13 *it is licensed in each State in which it serves as a represent-*
14 *ative payee (if licensing is available in the State) in accord-*
15 *ance with requirements specified by the Commissioner. Any*
16 *such annual certification shall include a copy of any inde-*
17 *pendent audit on the agency which may have been per-*
18 *formed since the previous certification.”.*

19 (2) *TITLE XVI AMENDMENTS.—Section*
20 1631(a)(2) *of such Act (42 U.S.C. 1383(a)(2)) is*
21 amended—

22 (A) *in subparagraph (B)(vii), by striking*
23 “a *community-based nonprofit social service*
24 *agency licensed or bonded by the State” in sub-*
25 *clause (I) and inserting “a certified community-*

1 *based nonprofit social service agency (as defined*
2 *in subparagraph (I))”;*

3 *(B) in subparagraph (D)(ii)—*

4 *(i) by striking “or any community-*
5 *based” and all that follows through “in ac-*
6 *cordance” in subclause (II) and inserting*
7 *“or any certified community-based non-*
8 *profit social service agency (as defined in*
9 *subparagraph (I)), if the agency, in accord-*
10 *ance”;*

11 *(ii) by redesignating items (aa) and*
12 *(bb) as subclauses (I) and (II), respectively*
13 *(and adjusting the margins accordingly);*
14 *and*

15 *(iii) by striking “subclause (II)(bb)”*
16 *and inserting “subclause (II)”;* and

17 *(C) by adding at the end the following:*

18 *“(I) For purposes of this paragraph, the term ‘certified*
19 *community-based nonprofit social service agency’ means a*
20 *community-based nonprofit social service agency which is*
21 *in compliance with requirements, under regulations which*
22 *shall be prescribed by the Commissioner, for annual certifi-*
23 *cation to the Commissioner that it is bonded in accordance*
24 *with requirements specified by the Commissioner and that*
25 *it is licensed in each State in which it serves as a represent-*

1 *ative payee (if licensing is available in the State) in accord-*
2 *ance with requirements specified by the Commissioner. Any*
3 *such annual certification shall include a copy of any inde-*
4 *pendent audit on the agency which may have been per-*
5 *formed since the previous certification.”.*

6 (3) *EFFECTIVE DATE.—The amendments made*
7 *by this subsection shall take effect on the first day of*
8 *the thirteenth month beginning after the date of the*
9 *enactment of this Act.*

10 (b) *PERIODIC ONSITE REVIEW.—*

11 (1) *TITLE II AMENDMENT.—Section 205(j)(6) of*
12 *such Act (42 U.S.C. 405(j)(6)) is amended to read as*
13 *follows:*

14 “(6)(A) *In addition to such other reviews of represent-*
15 *ative payees as the Commissioner of Social Security may*
16 *otherwise conduct, the Commissioner shall provide for the*
17 *periodic onsite review of any person or agency located in*
18 *the United States that receives the benefits payable under*
19 *this title (alone or in combination with benefits payable*
20 *under title VIII or title XVI) to another individual pursu-*
21 *ant to the appointment of such person or agency as a rep-*
22 *resentative payee under this subsection, section 807, or sec-*
23 *tion 1631(a)(2) in any case in which—*

1 “(i) the representative payee is a person who
2 serves in that capacity with respect to 15 or more
3 such individuals;

4 “(ii) the representative payee is a certified com-
5 munity-based nonprofit social service agency (as de-
6 fined in paragraph (9) of this subsection or section
7 1631(a)(2)(I)); or

8 “(iii) the representative payee is an agency
9 (other than an agency described in clause (ii)) that
10 serves in that capacity with respect to 50 or more
11 such individuals.

12 “(B) Within 120 days after the end of each fiscal year,
13 the Commissioner shall submit to the Committee on Ways
14 and Means of the House of Representatives and the Com-
15 mittee on Finance of the Senate a report on the results of
16 periodic onsite reviews conducted during the fiscal year
17 pursuant to subparagraph (A) and of any other reviews of
18 representative payees conducted during such fiscal year in
19 connection with benefits under this title. Each such report
20 shall describe in detail all problems identified in such re-
21 views and any corrective action taken or planned to be
22 taken to correct such problems, and shall include—

23 “(i) the number of such reviews;

24 “(ii) the results of such reviews;

1 “(iii) the number of cases in which the represent-
2 ative payee was changed and why;

3 “(iv) the number of cases involving the exercise
4 of expedited, targeted oversight of the representative
5 payee by the Commissioner conducted upon receipt of
6 an allegation of misuse of funds, failure to pay a ven-
7 dor, or a similar irregularity;

8 “(v) the number of cases discovered in which
9 there was a misuse of funds;

10 “(vi) how any such cases of misuse of funds were
11 dealt with by the Commissioner;

12 “(vii) the final disposition of such cases of mis-
13 use of funds, including any criminal penalties im-
14 posed; and

15 “(viii) such other information as the Commis-
16 sioner deems appropriate.”.

17 (2) *TITLE VIII AMENDMENT.*—Section 807 of
18 such Act (as amended by section 101(b)(2) of this Act)
19 is amended further by adding at the end the fol-
20 lowing:

21 “(k) *PERIODIC ONSITE REVIEW.*—

22 “(1) *IN GENERAL.*—In addition to such other re-
23 views of representative payees as the Commissioner of
24 Social Security may otherwise conduct, the Commis-
25 sioner may provide for the periodic onsite review of

1 any person or agency that receives the benefits pay-
2 able under this title (alone or in combination with
3 benefits payable under title II or title XVI) to another
4 individual pursuant to the appointment of such per-
5 son or agency as a representative payee under this
6 section, section 205(j), or section 1631(a)(2) in any
7 case in which—

8 “(A) the representative payee is a person
9 who serves in that capacity with respect to 15 or
10 more such individuals; or

11 “(B) the representative payee is an agency
12 that serves in that capacity with respect to 50 or
13 more such individuals.

14 “(2) REPORT.—Within 120 days after the end of
15 each fiscal year, the Commissioner shall submit to the
16 Committee on Ways and Means of the House of Rep-
17 resentatives and the Committee on Finance of the
18 Senate a report on the results of periodic onsite re-
19 views conducted during the fiscal year pursuant to
20 paragraph (1) and of any other reviews of representa-
21 tive payees conducted during such fiscal year in con-
22 nection with benefits under this title. Each such re-
23 port shall describe in detail all problems identified in
24 such reviews and any corrective action taken or

1 *planned to be taken to correct such problems, and*
2 *shall include—*

3 “(A) *the number of such reviews;*

4 “(B) *the results of such reviews;*

5 “(C) *the number of cases in which the rep-*
6 *resentative payee was changed and why;*

7 “(D) *the number of cases involving the exer-*
8 *cise of expedited, targeted oversight of the rep-*
9 *resentative payee by the Commissioner conducted*
10 *upon receipt of an allegation of misuse of funds,*
11 *failure to pay a vendor, or a similar irregu-*
12 *larity;*

13 “(E) *the number of cases discovered in*
14 *which there was a misuse of funds;*

15 “(F) *how any such cases of misuse of funds*
16 *were dealt with by the Commissioner;*

17 “(G) *the final disposition of such cases of*
18 *misuse of funds, including any criminal pen-*
19 *alties imposed; and*

20 “(H) *such other information as the Com-*
21 *missioner deems appropriate.”.*

22 (3) *TITLE XVI AMENDMENT.—Section*
23 *1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G))*
24 *is amended to read as follows:*

1 “(G)(i) *In addition to such other reviews of representa-*
2 *tive payees as the Commissioner of Social Security may*
3 *otherwise conduct, the Commissioner shall provide for the*
4 *periodic onsite review of any person or agency that receives*
5 *the benefits payable under this title (alone or in combina-*
6 *tion with benefits payable under title II or title VIII) to*
7 *another individual pursuant to the appointment of the per-*
8 *son or agency as a representative payee under this para-*
9 *graph, section 205(j), or section 807 in any case in which—*

10 “(I) *the representative payee is a person who*
11 *serves in that capacity with respect to 15 or more*
12 *such individuals;*

13 “(II) *the representative payee is a certified com-*
14 *munity-based nonprofit social service agency (as de-*
15 *fined in subparagraph (I) of this paragraph or sec-*
16 *tion 205(j)(9)); or*

17 “(III) *the representative payee is an agency*
18 *(other than an agency described in subclause (II))*
19 *that serves in that capacity with respect to 50 or*
20 *more such individuals.*

21 “(ii) *Within 120 days after the end of each fiscal year,*
22 *the Commissioner shall submit to the Committee on Ways*
23 *and Means of the House of Representatives and the Com-*
24 *mittee on Finance of the Senate a report on the results of*
25 *periodic onsite reviews conducted during the fiscal year*

1 pursuant to clause (i) and of any other reviews of represent-
2 ative payees conducted during such fiscal year in connec-
3 tion with benefits under this title. Each such report shall
4 describe in detail all problems identified in the reviews and
5 any corrective action taken or planned to be taken to correct
6 the problems, and shall include—

7 “(I) the number of the reviews;

8 “(II) the results of such reviews;

9 “(III) the number of cases in which the rep-
10 representative payee was changed and why;

11 “(IV) the number of cases involving the exercise
12 of expedited, targeted oversight of the representative
13 payee by the Commissioner conducted upon receipt of
14 an allegation of misuse of funds, failure to pay a ven-
15 dor, or a similar irregularity;

16 “(V) the number of cases discovered in which
17 there was a misuse of funds;

18 “(VI) how any such cases of misuse of funds were
19 dealt with by the Commissioner;

20 “(VII) the final disposition of such cases of mis-
21 use of funds, including any criminal penalties im-
22 posed; and

23 “(VIII) such other information as the Commis-
24 sioner deems appropriate.”.

1 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
2 **RESENTATIVE PAYEE OF PERSONS CON-**
3 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
4 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
5 **ING PROSECUTION, CUSTODY, OR CONFINEMENT.**
6 **MENT.**

7 (a) *TITLE II AMENDMENTS.*—Section 205(j)(2) of the
8 *Social Security Act (42 U.S.C. 405(j)(2))* is amended—

9 (1) in subparagraph (B)(i)—

10 (A) by striking “and” at the end of sub-
11 clause (III);

12 (B) by redesignating subclause (IV) as sub-
13 clause (VI); and

14 (C) by inserting after subclause (III) the
15 following:

16 “(IV) obtain information concerning whether
17 such person has been convicted of any other offense
18 under Federal or State law which resulted in impris-
19 onment for more than 1 year,

20 “(V) obtain information concerning whether such
21 person is a person described in section
22 202(x)(1)(A)(iv), and”;

23 (2) in subparagraph (B), by adding at the end
24 the following:

25 “(iii) Notwithstanding the provisions of section 552a
26 of title 5, United States Code, or any other provision of

1 *Federal or State law (other than section 6103 of the Inter-*
2 *nal Revenue Code of 1986 and section 1106(c) of this Act),*
3 *the Commissioner shall furnish any Federal, State, or local*
4 *law enforcement officer, upon the written request of the offi-*
5 *cer, with the current address, social security account num-*
6 *ber, and photograph (if applicable) of any person inves-*
7 *tigated under this paragraph, if the officer furnishes the*
8 *Commissioner with the name of such person and such other*
9 *identifying information as may reasonably be required by*
10 *the Commissioner to establish the unique identity of such*
11 *person, and notifies the Commissioner that—*

12 “(I) such person is described in section
13 202(x)(1)(A)(iv),

14 “(II) such person has information that is nec-
15 essary for the officer to conduct the officer’s official
16 duties, and

17 “(III) the location or apprehension of such per-
18 son is within the officer’s official duties.”;

19 (3) in subparagraph (C)(i)(II)—

20 (A) by striking “subparagraph (B)(i)(IV),”
21 and inserting “subparagraph (B)(i)(VI)”;

22 (B) by striking “section
23 1631(a)(2)(B)(i)(IV)” and inserting “section
24 1631(a)(2)(B)(i)(VI)”;

25 (4) in subparagraph (C)(i)—

1 (A) by striking “or” at the end of subclause
2 (II);

3 (B) by striking the period at the end of sub-
4 clause (III) and inserting a comma; and

5 (C) by adding at the end the following:

6 “(IV) such person has previously been convicted
7 as described in subparagraph (B)(i)(IV), unless the
8 Commissioner determines that such certification
9 would be appropriate notwithstanding such convic-
10 tion, or

11 “(V) such person is person described in section
12 202(x)(1)(A)(iv).”.

13 (b) *TITLE VIII AMENDMENTS.*—Section 807 of such
14 *Act (42 U.S.C. 1007) is amended—*

15 (1) in subsection (b)(2)—

16 (A) by striking “and” at the end of sub-
17 paragraph (C);

18 (B) by redesignating subparagraph (D) as
19 subparagraph (F); and

20 (C) by inserting after subparagraph (C) the
21 following:

22 “(D) obtain information concerning whether
23 such person has been convicted of any other of-
24 fense under Federal or State law which resulted
25 in imprisonment for more than 1 year;

1 “(E) obtain information concerning whether
2 such person is a person described in section
3 804(a)(2); and”;

4 (2) in subsection (b), by adding at the end the
5 following:

6 “(3) Notwithstanding the provisions of section
7 552a of title 5, United States Code, or any other pro-
8 vision of Federal or State law (other than section
9 6103 of the Internal Revenue Code of 1986 and sec-
10 tion 1106(c) of this Act), the Commissioner shall fur-
11 nish any Federal, State, or local law enforcement offi-
12 cer, upon the written request of the officer, with the
13 current address, social security account number, and
14 photograph (if applicable) of any person investigated
15 under this subsection, if the officer furnishes the Com-
16 missioner with the name of such person and such
17 other identifying information as may reasonably be
18 required by the Commissioner to establish the unique
19 identity of such person, and notifies the Commis-
20 sioner that—

21 “(A) such person is described in section
22 804(a)(2),

23 “(B) such person has information that is
24 necessary for the officer to conduct the officer’s
25 official duties, and

1 “(C) the location or apprehension of such
2 person is within the officer’s official duties.”;

3 and

4 (3) in subsection (d)(1)—

5 (A) by striking “or” at the end of subpara-
6 graph (B);

7 (B) by striking the period at the end of sub-
8 paragraph (C) and inserting a semicolon; and

9 (C) by adding at the end the following:

10 “(D) such person has previously been con-
11 victed as described in subsection (b)(2)(D), un-
12 less the Commissioner determines that such pay-
13 ment would be appropriate notwithstanding such
14 conviction; or

15 “(E) such person is a person described in
16 section 804(a)(2).”.

17 (c) *TITLE XVI AMENDMENTS.*—Section 1631(a)(2)(B)
18 of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

19 (1) in clause (ii)—

20 (A) by striking “and” at the end of sub-
21 clause (III);

22 (B) by redesignating subclause (IV) as sub-
23 clause (VI); and

24 (C) by inserting after subclause (III) the
25 following:

1 “(IV) obtain information concerning whether the
2 person has been convicted of any other offense under
3 Federal or State law which resulted in imprisonment
4 for more than 1 year;

5 “(V) obtain information concerning whether such
6 person is a person described in section 1611(e)(4)(A);
7 and”;

8 (2) in clause (iii)(II)—

9 (A) by striking “clause (ii)(IV)” and insert-
10 ing “clause (ii)(VI)”;

11 (B) by striking “section
12 205(j)(2)(B)(i)(IV)” and inserting “section
13 205(j)(2)(B)(i)(VI)”;

14 (3) in clause (iii)—

15 (A) by striking “or” at the end of subclause
16 (II);

17 (B) by striking the period at the end of sub-
18 clause (III) and inserting a semicolon; and

19 (C) by adding at the end the following:

20 “(IV) the person has previously been convicted as
21 described in clause (ii)(IV) of this subparagraph, un-
22 less the Commissioner determines that the payment
23 would be appropriate notwithstanding the conviction;
24 or

1 “(V) such person is a person described in section
2 1611(e)(4)(A).”; and

3 (4) by adding at the end the following:

4 “(xiv) Notwithstanding the provisions of section 552a
5 of title 5, United States Code, or any other provision of
6 Federal or State law (other than section 6103 of the Inter-
7 nal Revenue Code of 1986 and section 1106(c) of this Act),
8 the Commissioner shall furnish any Federal, State, or local
9 law enforcement officer, upon the written request of the offi-
10 cer, with the current address, social security account num-
11 ber, and photograph (if applicable) of any person inves-
12 tigated under this subparagraph, if the officer furnishes the
13 Commissioner with the name of such person and such other
14 identifying information as may reasonably be required by
15 the Commissioner to establish the unique identity of such
16 person, and notifies the Commissioner that—

17 “(I) such person is described in section
18 1611(e)(4)(A),

19 “(II) such person has information that is nec-
20 essary for the officer to conduct the officer’s official
21 duties, and

22 “(III) the location or apprehension of such per-
23 son is within the officer’s official duties.”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the first day of the thirteenth*
 3 *month beginning after the date of the enactment of this Act.*

4 (e) *REPORT TO CONGRESS.*—*The Commissioner of So-*
 5 *cial Security, in consultation with the Inspector General*
 6 *of the Social Security Administration, shall prepare a re-*
 7 *port evaluating whether the existing procedures and reviews*
 8 *for the qualification (including disqualification) of rep-*
 9 *resentative payees are sufficient to enable the Commissioner*
 10 *to protect benefits from being misused by representative*
 11 *payees. The Commissioner shall submit the report to the*
 12 *Committee on Ways and Means of the House of Representa-*
 13 *tives and the Committee on Finance of the Senate no later*
 14 *than 270 days after the date of the enactment of this Act.*
 15 *The Commissioner shall include in such report any rec-*
 16 *ommendations that the Commissioner considers appro-*
 17 *priate.*

18 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY**
 19 **REPRESENTATIVE PAYEES.**

20 (a) *TITLE II AMENDMENTS.*—*Section 205(j)(4)(A)(i)*
 21 *of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is*
 22 *amended—*

23 (1) *in the first sentence, by striking “A” and in-*
 24 *serting “Except as provided in the next sentence, a”;*
 25 *and*

1 (2) *in the second sentence, by striking “The Sec-*
2 *retary” and inserting the following: “A qualified or-*
3 *ganization may not collect a fee from an individual*
4 *for any month with respect to which the Commis-*
5 *sioner of Social Security or a court of competent ju-*
6 *risdiction has determined that the organization mis-*
7 *used all or part of the individual’s benefit, and any*
8 *amount so collected by the qualified organization for*
9 *such month shall be treated as a misused part of the*
10 *individual’s benefit for purposes of paragraphs (5)*
11 *and (6). The Commissioner”.*

12 (b) *TITLE XVI AMENDMENTS.—Section*
13 1631(a)(2)(D)(i) *of such Act (42 U.S.C. 1383(a)(2)(D)(i))*
14 *is amended—*

15 (1) *in the first sentence, by striking “A” and in-*
16 *serting “Except as provided in the next sentence, a”;*
17 *and*

18 (2) *in the second sentence, by striking “The*
19 *Commissioner” and inserting the following: “A quali-*
20 *fied organization may not collect a fee from an indi-*
21 *vidual for any month with respect to which the Com-*
22 *missioner of Social Security or a court of competent*
23 *jurisdiction has determined that the organization*
24 *misused all or part of the individual’s benefit, and*
25 *any amount so collected by the qualified organization*

1 for such month shall be treated as a misused part of
 2 the individual's benefit for purposes of subparagraphs
 3 (E) and (F). The Commissioner''.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
 5 section shall apply to any month involving benefit misuse
 6 by a representative payee in any case with respect to which
 7 the Commissioner of Social Security or a court of competent
 8 jurisdiction makes the determination of misuse after 180
 9 days after the date of the enactment of this Act.

10 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MIS-**
 11 **USED BENEFITS.**

12 (a) *TITLE II AMENDMENTS.*—Section 205(j) of the So-
 13 cial Security Act (42 U.S.C. 405(j)) (as amended by sec-
 14 tions 101 and 102) is amended further—

15 (1) by redesignating paragraphs (7), (8), and (9)
 16 as paragraphs (8), (9), and (10), respectively;

17 (2) in paragraphs (2)(C)(v), (3)(F), and (4)(B),
 18 by striking “paragraph (9)” and inserting “para-
 19 graph (10)”;

20 (3) in paragraph (6)(A)(ii), by striking “para-
 21 graph (9)” and inserting “paragraph (10)”;

22 (4) by inserting after paragraph (6) the fol-
 23 lowing:

24 “(7)(A) If the Commissioner of Social Security or a
 25 court of competent jurisdiction determines that a represent-

1 *ative payee that is not a Federal, State, or local government*
2 *agency has misused all or part of an individual's benefit*
3 *that was paid to such representative payee under this sub-*
4 *section, the representative payee shall be liable for the*
5 *amount misused, and such amount (to the extent not repaid*
6 *by the representative payee) shall be treated as an overpay-*
7 *ment of benefits under this title to the representative payee*
8 *for all purposes of this Act and related laws pertaining to*
9 *the recovery of such overpayments. Subject to subparagraph*
10 *(B), upon recovering all or any part of such amount, the*
11 *Commissioner shall certify an amount equal to the recov-*
12 *ered amount for payment to such individual or such indi-*
13 *vidual's alternative representative payee.*

14 “(B) *The total of the amount certified for payment to*
15 *such individual or such individual's alternative representa-*
16 *tive payee under subparagraph (A) and the amount cer-*
17 *tified for payment under paragraph (5) may not exceed the*
18 *total benefit amount misused by the representative payee*
19 *with respect to such individual.”.*

20 (b) *TITLE VIII AMENDMENT.—Section 807 of such Act*
21 *(as amended by section 102(b)(2)) is amended further by*
22 *adding at the end the following:*

23 “(l) *LIABILITY FOR MISUSED AMOUNTS.—*

24 “(1) *IN GENERAL.—If the Commissioner of So-*
25 *cial Security or a court of competent jurisdiction de-*

1 *termines that a representative payee that is not a*
2 *Federal, State, or local government agency has mis-*
3 *used all or part of a qualified individual's benefit*
4 *that was paid to such representative payee under this*
5 *section, the representative payee shall be liable for the*
6 *amount misused, and such amount (to the extent not*
7 *repaid by the representative payee) shall be treated as*
8 *an overpayment of benefits under this title to the rep-*
9 *resentative payee for all purposes of this Act and re-*
10 *lated laws pertaining to the recovery of such overpay-*
11 *ments. Subject to paragraph (2), upon recovering all*
12 *or any part of such amount, the Commissioner shall*
13 *make payment of an amount equal to the recovered*
14 *amount to such qualified individual or such qualified*
15 *individual's alternative representative payee.*

16 *“(2) LIMITATION.—The total of the amount paid*
17 *to such individual or such individual's alternative*
18 *representative payee under paragraph (1) and the*
19 *amount paid under subsection (i) may not exceed the*
20 *total benefit amount misused by the representative*
21 *payee with respect to such individual.”.*

22 *(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of*
23 *such Act (42 U.S.C. 1383(a)(2)) (as amended by section*
24 *102(b)(3)) is amended further—*

1 (1) in subparagraph (G)(i)(II), by striking “sec-
2 tion 205(j)(9)” and inserting “section 205(j)(10”;
3 and

4 (2) by striking subparagraph (H) and inserting
5 the following:

6 “(H)(i) If the Commissioner of Social Security or a
7 court of competent jurisdiction determines that a represent-
8 ative payee that is not a Federal, State, or local government
9 agency has misused all or part of an individual’s benefit
10 that was paid to the representative payee under this para-
11 graph, the representative payee shall be liable for the
12 amount misused, and the amount (to the extent not repaid
13 by the representative payee) shall be treated as an overpay-
14 ment of benefits under this title to the representative payee
15 for all purposes of this Act and related laws pertaining to
16 the recovery of the overpayments. Subject to clause (ii),
17 upon recovering all or any part of the amount, the Commis-
18 sioner shall make payment of an amount equal to the recov-
19 ered amount to such individual or such individual’s alter-
20 native representative payee.

21 “(ii) The total of the amount paid to such individual
22 or such individual’s alternative representative payee under
23 clause (i) and the amount paid under subparagraph (E)
24 may not exceed the total benefit amount misused by the rep-
25 resentative payee with respect to such individual.”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to benefit misuse by a representative*
3 *payee in any case with respect to which the Commissioner*
4 *of Social Security or a court of competent jurisdiction*
5 *makes the determination of misuse after 180 days after the*
6 *date of the enactment of this Act.*

7 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
8 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
9 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

10 (a) *TITLE II AMENDMENTS.*—*Section 205(j)(3) of the*
11 *Social Security Act (42 U.S.C. 405(j)(3)) (as amended by*
12 *sections 102(a)(1)(B) and 105(a)(2)) is amended—*

13 (1) *by redesignating subparagraphs (E) and (F)*
14 *as subparagraphs (F) and (G), respectively; and*

15 (2) *by inserting after subparagraph (D) the fol-*
16 *lowing:*

17 “(E) *In any case in which the person described in sub-*
18 *paragraph (A) or (D) receiving payments on behalf of an-*
19 *other fails to submit a report required by the Commissioner*
20 *of Social Security under subparagraph (A) or (D), the*
21 *Commissioner may, after furnishing notice to such person*
22 *and the individual entitled to such payment, require that*
23 *such person appear in person at a field office of the Social*
24 *Security Administration serving the area in which the indi-*
25 *vidual resides in order to receive such payments.”.*

1 (b) *TITLE VIII AMENDMENTS.—Section 807(h) of such*
2 *Act (42 U.S.C. 1007(h)) is amended—*

3 (1) *by redesignating paragraphs (3) and (4) as*
4 *paragraphs (4) and (5), respectively; and*

5 (2) *by inserting after paragraph (2) the fol-*
6 *lowing:*

7 “(3) *AUTHORITY TO REDIRECT DELIVERY OF*
8 *BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE*
9 *FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any*
10 *case in which the person described in paragraph (1)*
11 *or (2) receiving benefit payments on behalf of a quali-*
12 *fied individual fails to submit a report required by*
13 *the Commissioner of Social Security under paragraph*
14 *(1) or (2), the Commissioner may, after furnishing*
15 *notice to such person and the qualified individual, re-*
16 *quire that such person appear in person at a United*
17 *States Government facility designated by the Social*
18 *Security Administration as serving the area in which*
19 *the qualified individual resides in order to receive*
20 *such benefit payments.”.*

21 (c) *TITLE XVI AMENDMENT.—Section 1631(a)(2)(C)*
22 *of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by add-*
23 *ing at the end the following:*

24 “(v) *In any case in which the person described in*
25 *clause (i) or (iv) receiving payments on behalf of another*

1 fails to submit a report required by the Commissioner of
2 Social Security under clause (i) or (iv), the Commissioner
3 may, after furnishing notice to the person and the indi-
4 vidual entitled to the payment, require that such person ap-
5 pear in person at a field office of the Social Security Ad-
6 ministration serving the area in which the individual re-
7 sides in order to receive such payments.”.

8 (d) *EFFECTIVE DATE.*—The amendments made by this
9 section shall take effect 180 days after the date of the enact-
10 ment of this Act.

11 **SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTA-**
12 **TIVE PAYEES.**

13 (a) *IN GENERAL.*—Section 1110 of the Social Security
14 Act (42 U.S.C. 1310) is amended by adding at the end the
15 following:

16 “(c) Notwithstanding subsection (a)(1), of the amount
17 appropriated to carry out that subsection for fiscal year
18 2004, \$17,800,000 of such amount shall be transferred and
19 made available to the Inspector General of the Social Secu-
20 rity Administration for purposes of conducting a statis-
21 tically significant survey to determine how payments made
22 to individuals, organizations, and State or local govern-
23 ment agencies that are representative payees for benefits
24 paid under title II or XVI are being managed and used
25 on behalf of the beneficiaries for whom such benefits are

1 paid. Not later than February 1, 2005, the Inspector Gen-
 2 eral of the Social Security Administration shall submit a
 3 report on the survey conducted in accordance with this sub-
 4 section to the Committee on Ways and Means of the House
 5 of Representatives and the Committee on Finance of the
 6 Senate.”.

7 **Subtitle B—Enforcement**

8 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 9 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 10 **RESENTATIVE PAYEES.**

11 (a) *IN GENERAL.*—Section 1129(a) of the Social Secu-
 12 rity Act (42 U.S.C. 1320a–8) is amended by adding at the
 13 end the following:

14 “(3) Any person (including an organization, agency,
 15 or other entity) who, having received, while acting in the
 16 capacity of a representative payee pursuant to section
 17 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
 18 or XVI for the use and benefit of another individual, con-
 19 verts such payment, or any part thereof, to a use that such
 20 person knows or should know is other than for the use and
 21 benefit of such other individual shall be subject to, in addi-
 22 tion to any other penalties that may be prescribed by law,
 23 a civil money penalty of not more than \$5,000 for each
 24 such conversion. Such person shall also be subject to an as-
 25 sessment, in lieu of damages sustained by the United States

1 resulting from the conversion, of not more than twice the
2 amount of any payments so converted.”.

3 (b) *EFFECTIVE DATE.*—The amendment made by this
4 section shall apply with respect to violations committed
5 after the date of the enactment of this Act.

6 **TITLE II—PROGRAM** 7 **PROTECTIONS**

8 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**
9 **SPECT TO WITHHOLDING OF MATERIAL**
10 **FACTS.**

11 (a) *TREATMENT OF WITHHOLDING OF MATERIAL*
12 *FACTS.*—

13 (1) *CIVIL PENALTIES.*—Section 1129(a)(1) of the
14 *Social Security Act* (42 U.S.C. 1320a–8(a)(1)) is
15 amended—

16 (A) by striking “who” in the first sentence
17 and inserting “who—”;

18 (B) by striking “makes” in the first sen-
19 tence and all that follows through “shall be sub-
20 ject to,” and inserting the following:

21 “(A) makes, or causes to be made, a statement or
22 representation of a material fact, for use in deter-
23 mining any initial or continuing right to or the
24 amount of monthly insurance benefits under title II
25 or benefits or payments under title VIII or XVI, that

1 *the person knows or should know is false or mis-*
2 *leading,*

3 *“(B) makes such a statement or representation*
4 *for such use with knowing disregard for the truth, or*

5 *“(C) omits from a statement or representation*
6 *for such use, or otherwise withholds disclosure of, a*
7 *fact which the person knows or should know is mate-*
8 *rial to the determination of any initial or continuing*
9 *right to or the amount of monthly insurance benefits*
10 *under title II or benefits or payments under title VIII*
11 *or XVI, if the person knows, or should know, that the*
12 *statement or representation with such omission is*
13 *false or misleading or that the withholding of such*
14 *disclosure is misleading,*

15 *shall be subject to,”;*

16 *(C) by inserting “or each receipt of such*
17 *benefits or payments while withholding disclo-*
18 *sure of such fact” after “each such statement or*
19 *representation” in the first sentence;*

20 *(D) by inserting “or because of such with-*
21 *holding of disclosure of a material fact” after*
22 *“because of such statement or representation” in*
23 *the second sentence; and*

1 (E) by inserting “or such a withholding of
2 disclosure” after “such a statement or represen-
3 tation” in the second sentence.

4 (2) *ADMINISTRATIVE PROCEDURE FOR IMPOSING*
5 *PENALTIES.*—Section 1129A(a) of such Act (42
6 U.S.C. 1320a–8a(a)) is amended—

7 (A) by striking “who” the first place it ap-
8 pears and inserting “who—”; and

9 (B) by striking “makes” and all that follows
10 through “shall be subject to,” and inserting the
11 following:

12 “(1) makes, or causes to be made, a statement or
13 representation of a material fact, for use in deter-
14 mining any initial or continuing right to or the
15 amount of monthly insurance benefits under title II
16 or benefits or payments under title XVI that the per-
17 son knows or should know is false or misleading,

18 “(2) makes such a statement or representation
19 for such use with knowing disregard for the truth, or

20 “(3) omits from a statement or representation for
21 such use, or otherwise withholds disclosure of, a fact
22 which the person knows or should know is material
23 to the determination of any initial or continuing
24 right to or the amount of monthly insurance benefits
25 under title II or benefits or payments under title XVI,

1 if the person knows, or should know, that the state-
2 ment or representation with such omission is false or
3 misleading or that the withholding of such disclosure
4 is misleading,
5 shall be subject to.”

6 (b) *CLARIFICATION OF TREATMENT OF RECOVERED*
7 *AMOUNTS.*—Section 1129(e)(2)(B) of such Act (42
8 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the
9 case of amounts recovered arising out of a determination
10 relating to title VIII or XVI,” and inserting “In the case
11 of any other amounts recovered under this section,”.

12 (c) *CONFORMING AMENDMENTS.*—

13 (1) Section 1129(b)(3)(A) of such Act (42
14 U.S.C. 1320a–8(b)(3)(A)) is amended by striking
15 “charging fraud or false statements”.

16 (2) Section 1129(c)(1) of such Act (42
17 U.S.C. 1320a–8(c)(1)) is amended by striking “and
18 representations” and inserting “, representations, or
19 actions”.

20 (3) Section 1129(e)(1)(A) of such Act (42
21 U.S.C. 1320a–8(e)(1)(A)) is amended by striking
22 “statement or representation referred to in subsection
23 (a) was made” and inserting “violation occurred”.

24 (d) *EFFECTIVE DATE.*—The amendments made by this
25 section shall apply with respect to violations committed

1 *after the date on which the Commissioner of Social Security*
2 *implements the centralized computer file described in sec-*
3 *tion 202.*

4 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**
5 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**
6 **MISSION OF REPORTS OF CHANGES IN WORK**
7 **OR EARNINGS STATUS OF DISABLED BENE-**
8 **FICIARIES.**

9 *Effective as soon as possible, but not later than 1 year*
10 *after the date of the enactment of this Act, until such time*
11 *as the Commissioner of Social Security implements a cen-*
12 *tralized computer file recording the date of the submission*
13 *of information by a disabled beneficiary (or representative)*
14 *regarding a change in the beneficiary's work or earnings*
15 *status, the Commissioner shall issue a receipt to the disabled*
16 *beneficiary (or representative) each time he or she submits*
17 *documentation, or otherwise reports to the Commissioner,*
18 *on a change in such status.*

19 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
20 **ING PROSECUTION, CUSTODY, OR CONFINE-**
21 **MENT, AND TO PERSONS VIOLATING PROBA-**
22 **TION OR PAROLE.**

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

1 (1) *in the heading, by striking “Prisoners” and*
2 *all that follows and inserting the following: “Pris-*
3 *oners, Certain Other Inmates of Publicly Funded In-*
4 *stitutions, Fugitives, Probationers, and Parolees”;*

5 (2) *in paragraph (1)(A)(ii)(IV), by striking “or”*
6 *at the end;*

7 (3) *in paragraph (1)(A)(iii), by striking the pe-*
8 *riod at the end and inserting a comma;*

9 (4) *by inserting after paragraph (1)(A)(iii) the*
10 *following:*

11 *“(iv) is fleeing to avoid prosecution, or custody*
12 *or confinement after conviction, under the laws of the*
13 *place from which the person flees, for a crime, or an*
14 *attempt to commit a crime, which is a felony under*
15 *the laws of the place from which the person flees, or,*
16 *in jurisdictions that do not define crimes as felonies,*
17 *is punishable by death or imprisonment for a term*
18 *exceeding 1 year regardless of the actual sentence im-*
19 *posed, and a Federal, State, or local law enforcement*
20 *agency has notified the Commissioner that such agen-*
21 *cy intends to pursue the individual by seeking arrest,*
22 *extradition, or prosecution, or*

23 *“(v) is violating a condition of probation or pa-*
24 *role imposed under Federal or State law, and a Fed-*
25 *eral, State, or local law enforcement agency has noti-*

1 *fied the Commissioner that such agency intends to*
2 *seek revocation of the individual's probation or pa-*
3 *role.*

4 *In the case of an individual from whom such monthly bene-*
5 *fits have been withheld pursuant to clause (iv) or (v), the*
6 *Commissioner of Social Security may, for good cause*
7 *shown, pay such withheld benefits to the individual.”; and*

8 *(5) in paragraph (3), by adding at the end the*
9 *following:*

10 *“(C) Notwithstanding the provisions of section 552a*
11 *of title 5, United States Code, or any other provision of*
12 *Federal or State law (other than section 6103 of the Inter-*
13 *nal Revenue Code of 1986 and section 1106(c) of this Act),*
14 *the Commissioner shall furnish any Federal, State, or local*
15 *law enforcement officer, upon the written request of the offi-*
16 *cer, with the current address, Social Security number, and*
17 *photograph (if applicable) of any beneficiary under this*
18 *title, if the officer furnishes the Commissioner with the*
19 *name of the beneficiary, and other identifying information*
20 *as reasonably required by the Commissioner to establish the*
21 *unique identity of the beneficiary, and notifies the Commis-*
22 *sioner that—*

23 *“(i) the beneficiary is described in clause (iv) or*
24 *(v) of paragraph (1)(A);*

1 “(ii) the Commissioner has information with re-
2 spect to the beneficiary that is necessary for the officer
3 to conduct the officer’s official duties; and

4 “(iii) the location or apprehension of the bene-
5 ficiary is within the officer’s official duties.”.

6 (b) CONFORMING AMENDMENTS TO TITLE XVI.—Sec-
7 tion 1611(e) of the Social Security Act (42 U.S.C. 1382(e))
8 is amended—

9 (1) in paragraph (4)—

10 (A) in subparagraph (A), by striking “or
11 which, in the case of the State of
12 New Jersey, is a high misdemeanor under the
13 laws of such State” and inserting “or, in juris-
14 dictions that do not define crimes as felonies, is
15 punishable by death or imprisonment for a term
16 exceeding 1 year regardless of the actual sentence
17 imposed, and a Federal, State, or local law en-
18 forcement agency has notified the Commissioner
19 of Social Security that the agency intends to
20 pursue the person by seeking arrest, extradition,
21 or prosecution”;

22 (B) in subparagraph (B), by inserting “and
23 a Federal, State, or local law enforcement agency
24 has notified the Commissioner of Social Security

1 that the agency intends to seek revocation of the
2 person's probation or parole" after "law"; and

3 (C) by adding at the end the following sen-
4 tence after and below subparagraph (B):

5 *"In the case of an individual whose eligibility for a month
6 or months has been suspended pursuant to subparagraph
7 (A) or (B), the Commissioner of Social Security may, for
8 good cause shown, restore such individual's eligibility for
9 all such months."*; and

10 (2) in paragraph (5), by striking subparagraphs
11 (A) and (B) and inserting the following:

12 *"(A) the recipient is described in subparagraph
13 (A) or (B) of paragraph (4);*

14 *"(B) the Commissioner has information with re-
15 spect to the recipient that is necessary for the officer
16 to conduct the officer's official duties; and*

17 *"(C) the location or apprehension of the recipient
18 is within the officer's official duties."*

19 (c) *CONFORMING AMENDMENT.—Section 804(a)(2) of
20 the Social Security Act (42 U.S.C. 1004(a)(2)) is amended
21 by striking "or which, in the case of the State of New Jersey,
22 is a high misdemeanor under the laws of such State" and
23 inserting "or, in jurisdictions that do not define crimes as
24 felonies, is punishable by death or imprisonment for a term
25 exceeding 1 year regardless of the actual sentence imposed"*.

1 (d) *REGULATIONS.*—Not later than the first day of the
2 first month that begins on or after the date that is 9 months
3 after the date of the enactment of this Act, the Commissioner
4 of Social Security shall promulgate regulations governing
5 payment by the Commissioner, for good cause shown, of
6 withheld benefits pursuant to the last sentences of sections
7 202(x)(1)(A) and 1611(e)(4) of the Social Security Act (as
8 amended by subsections (a) and (b), respectively).

9 (e) *EFFECTIVE DATE.*—The amendments made by sub-
10 section (a) shall take effect on the first day of the first
11 month that begins on or after the date that is 9 months
12 after the date of the enactment of this Act.

13 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
14 **VIDE FOR A FEE A PRODUCT OR SERVICE**
15 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
16 **CIAL SECURITY ADMINISTRATION.**

17 (a) *IN GENERAL.*—Section 1140 of the Social Security
18 Act (42 U.S.C. 1320b–10) is amended—

19 (1) in subsection (a), by adding at the end the
20 following:

21 “(4)(A) No person shall offer, for a fee, to assist an
22 individual to obtain a product or service that the person
23 knows or should know is provided free of charge by the So-
24 cial Security Administration unless, at the time the offer

1 is made, the person provides to the individual to whom the
2 offer is tendered a notice that—

3 “(i) explains that the product or service is avail-
4 able free of charge from the Social Security Adminis-
5 tration, and

6 “(ii) complies with standards prescribed by the
7 Commissioner of Social Security respecting the con-
8 tent of such notice and its placement, visibility, and
9 legibility.

10 “(B) Subparagraph (A) shall not apply to any offer—

11 “(i) to serve as a claimant representative in con-
12 nection with a claim arising under title II, title VIII,
13 or title XVI; or

14 “(ii) to prepare, or assist in the preparation of,
15 an individual’s plan for achieving self-support under
16 title XVI.”; and

17 (2) in the heading, by striking “PROHIBITION OF
18 MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-
19ERENCE” and inserting “PROHIBITIONS RELATING TO
20 REFERENCES”.

21 (b) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to offers of assistance made after the
23 sixth month ending after the Commissioner of Social Secu-
24 rity promulgates final regulations prescribing the stand-
25 ards applicable to the notice required to be provided in con-

1 nection with such offer. The Commissioner shall promul-
2 gate such final regulations within 1 year after the date of
3 the enactment of this Act.

4 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**
5 **AS CLAIMANT REPRESENTATIVES.**

6 Section 206(a)(1) of the Social Security Act (42
7 U.S.C. 406(a)(1)) is amended by inserting after the second
8 sentence the following: "Notwithstanding the preceding sen-
9 tences, the Commissioner, after due notice and opportunity
10 for hearing, (A) may refuse to recognize as a representative,
11 and may disqualify a representative already recognized,
12 any attorney who has been disbarred or suspended from any
13 court or bar to which he or she was previously admitted
14 to practice or who has been disqualified from participating
15 in or appearing before any Federal program or agency, and
16 (B) may refuse to recognize, and may disqualify, as a non-
17 attorney representative any attorney who has been dis-
18 barred or suspended from any court or bar to which he or
19 she was previously admitted to practice. A representative
20 who has been disqualified or suspended pursuant to this sec-
21 tion from appearing before the Social Security Administra-
22 tion as a result of collecting or receiving a fee in excess
23 of the amount authorized shall be barred from appearing
24 before the Social Security Administration as a representa-
25 tive until full restitution is made to the claimant and,

1 *thereafter, may be considered for reinstatement only under*
2 *such rules as the Commissioner may prescribe.”.*

3 **SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE**
4 **INTERFERENCE WITH ADMINISTRATION OF**
5 **SOCIAL SECURITY ACT.**

6 *Part A of title XI of the Social Security Act (42*
7 *U.S.C. 1301 et seq.) is amended by inserting after section*
8 *1129A the following:*

9 *“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF*
10 *SOCIAL SECURITY ACT*

11 *“SEC. 1129B. Whoever corruptly or by force or threats*
12 *of force (including any threatening letter or communica-*
13 *tion) attempts to intimidate or impede any officer, em-*
14 *ployee, or contractor of the Social Security Administration*
15 *(including any State employee of a disability determina-*
16 *tion service or any other individual designated by the Com-*
17 *missioner of Social Security) acting in an official capacity*
18 *to carry out a duty under this Act, or in any other way*
19 *corruptly or by force or threats of force (including any*
20 *threatening letter or communication) obstructs or impedes,*
21 *or attempts to obstruct or impede, the due administration*
22 *of this Act, shall be guilty of a felony and upon conviction*
23 *thereof shall be fined not more than \$5,000, imprisoned not*
24 *more than 3 years, or both, except that if the offense is com-*
25 *mitted only by threats of force, the person shall be guilty*
26 *of a felony and upon conviction thereof shall be fined not*

1 *more than \$3,000, imprisoned not more than 1 year, or*
2 *both. In this subsection, the term ‘threats of force’ means*
3 *threats of harm to the officer or employee of the United*
4 *States or to a contractor of the Social Security Administra-*
5 *tion, or to a member of the family of such an officer or*
6 *employee or contractor.”.*

7 **SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**
8 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

9 (a) *IN GENERAL.*—Section 1140(a)(1) of the Social Se-
10 *curity Act (42 U.S.C. 1320b–10(a)(1)) is amended—*

11 (1) *in subparagraph (A), by inserting “‘Centers*
12 *for Medicare & Medicaid Services’,” after “‘Health*
13 *Care Financing Administration’,”, by striking “or*
14 *‘Medicaid’,” and inserting “‘Medicaid’, ‘Death Bene-*
15 *fits Update’, ‘Federal Benefit Information’, ‘Funeral*
16 *Expenses’, or ‘Final Supplemental Plan’,” and by in-*
17 *serting “‘CMS’,” after “‘HCFA’,”;*

18 (2) *in subparagraph (B), by inserting “Centers*
19 *for Medicare & Medicaid Services,” after “Health*
20 *Care Financing Administration,” each place it ap-*
21 *pears; and*

22 (3) *in the matter following subparagraph (B), by*
23 *striking “the Health Care Financing Administra-*
24 *tion,” each place it appears and inserting “the Cen-*
25 *ters for Medicare & Medicaid Services,”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to items sent after 180 days after the*
3 *date of the enactment of this Act.*

4 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
5 **TRIAL WORK PERIOD UPON CONVICTION OF**
6 **FRAUDULENT CONCEALMENT OF WORK AC-**
7 **TIVITY.**

8 (a) *IN GENERAL.*—*Section 222(c) of the Social Secu-*
9 *rity Act (42 U.S.C. 422(c)) is amended by adding at the*
10 *end the following:*

11 “(5) *Upon conviction by a Federal court that an indi-*
12 *vidual has fraudulently concealed work activity during a*
13 *period of trial work from the Commissioner of Social Secu-*
14 *rity by—*

15 “(A) *providing false information to the Commis-*
16 *sioner of Social Security as to whether the individual*
17 *had earnings in or for a particular period, or as to*
18 *the amount thereof;*

19 “(B) *receiving disability insurance benefits*
20 *under this title while engaging in work activity under*
21 *another identity, including under another social secu-*
22 *rity account number or a number purporting to be a*
23 *social security account number; or*

24 “(C) *taking other actions to conceal work activ-*
25 *ity with an intent fraudulently to secure payment in*

1 *the Commissioner of Social Security making a benefit pay-*
2 *ment (or an increase in such a payment) that should not*
3 *have been made, shall consider the Commissioner of Social*
4 *Security a victim of the crime.”.*

5 (b) *AMENDMENTS TO TITLE VIII.—Section 807(i) of*
6 *such Act (42 U.S.C. 1007(i)) is amended—*

7 (1) *by striking “(i) RESTITUTION.—In any case*
8 *where” and inserting the following:*

9 “(i) *RESTITUTION.—*

10 “(1) *IN GENERAL.—In any case where”;* and

11 (2) *by adding at the end the following:*

12 “(2) *SSA TREATED AS A VICTIM.—Any Federal*
13 *court, when sentencing a defendant convicted of an of-*
14 *fense that results in the Commissioner of Social Secu-*
15 *rity making a benefit payment (or an increase in*
16 *such a payment) that should not have been made,*
17 *shall consider the Commissioner of Social Security a*
18 *victim of the crime.”.*

19 (c) *AMENDMENTS TO TITLE XVI.—Section 1632 of*
20 *such Act (42 U.S.C. 1383a) is amended—*

21 (1) *by redesignating subsection (b) as subsection*
22 *(c); and*

23 (2) *by inserting after subsection (a) the fol-*
24 *lowing:*

1 “(b) Any Federal court, when sentencing a defendant
2 convicted of an offense under subsection (a) that results in
3 the Commissioner of Social Security making a benefit pay-
4 ment (or an increase in such a payment) that should not
5 have been made, shall consider the Commissioner of Social
6 Security a victim of the crime.”.

7 (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION
8 PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b))
9 is amended by adding at the end the following:

10 “(3)(A) Except as provided in subparagraph (B),
11 amounts received by the Social Security Administration
12 pursuant to an order of restitution under section 208(b),
13 807(i), or 1632(b) shall be credited to a special fund estab-
14 lished in the Treasury of the United States for amounts so
15 received or recovered. The amounts so credited, to the extent
16 and in the amounts provided in advance in appropriations
17 Acts, shall be available to defray expenses incurred in car-
18 rying out titles II, VIII, and XVI.

19 “(B) Subparagraph (A) shall not apply with respect
20 to amounts received in connection with misuse by a rep-
21 resentative payee (within the meaning of sections 205(j),
22 807, and 1631(a)(2)) of funds paid as benefits under title
23 II, VIII, or XVI. Such amounts received in connection with
24 misuse of funds paid as benefits under title II shall be
25 transferred to the Managing Trustee of the Federal Old-Age

1 *and Survivors Insurance Trust Fund or the Federal Dis-*
2 *ability Insurance Trust Fund, as determined appropriate*
3 *by the Commissioner of Social Security, and such amounts*
4 *shall be deposited by the Managing Trustee into such Trust*
5 *Fund. All other such amounts shall be deposited by the*
6 *Commissioner into the general fund of the Treasury as mis-*
7 *cellaneous receipts.”.*

8 (e) *EFFECTIVE DATE.*—*The amendments made by sub-*
9 *sections (a), (b), and (c) shall apply with respect to viola-*
10 *tions occurring on or after the date of the enactment of this*
11 *Act.*

12 **SEC. 210. INFORMATION FOR ADMINISTRATION OF PROVI-**
13 **SIONS RELATED TO NONCOVERED EMPLOY-**
14 **MENT.**

15 (a) *COLLECTION.*—*Paragraph (2) of section 6047(d) of*
16 *the Internal Revenue Code of 1986 (relating to reports by*
17 *employers, plan administrators, etc.) is amended by adding*
18 *at the end the following new sentence: “In the case of any*
19 *employer deferred compensation plan (as defined in section*
20 *3405(e)(5)) of a State, a political subdivision thereof, or*
21 *any agency or instrumentality of either, the Secretary shall*
22 *in such forms or regulations require the identification of*
23 *any designated distribution (as so defined) if paid to any*
24 *participant or beneficiary of such plan based in whole or*
25 *in part upon an individual’s earnings for service in the*

1 *employ of any such governmental entity which did not con-*
 2 *stitute employment (as defined in section 3121(b)).”.*

3 (b) *DISCLOSURE.*—Section 6103(l)(1) of the Internal
 4 Revenue Code of 1986 (relating to disclosure of certain re-
 5 turns and return information to Social Security Adminis-
 6 tration and Railroad Retirement Board) is amended—

7 (1) in subparagraph (B), by striking “and”; and

8 (2) in subparagraph (C), by striking the period
 9 and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(D) any designated distribution described
 12 in the second sentence of section 6047(d)(2) to
 13 the Social Security Administration for purposes
 14 of its administration of the Social Security
 15 Act.”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
 17 section shall apply to distributions made after December 31,
 18 2003.

19 **SEC. 211. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF**
 20 **BENEFIT OVERPAYMENTS.**

21 (a) *IN GENERAL.*—Section 1147 of the Social Security
 22 Act (42 U.S.C. 1320b–17) is amended to read as follows:

23 “**CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM**
 24 **BENEFITS**

25 “(a) *IN GENERAL.*—Subject to subsection (b), whenever
 26 the Commissioner of Social Security determines that more

1 *than the correct amount of any payment has been made*
2 *to a person under a program described in subsection (e),*
3 *the Commissioner of Social Security may recover the*
4 *amount incorrectly paid by decreasing any amount which*
5 *is payable to such person under any other program speci-*
6 *fied in that subsection.*

7 “(b) *LIMITATION APPLICABLE TO CURRENT BENE-*
8 *FITS.—*

9 “(1) *IN GENERAL.—In carrying out subsection*
10 *(a), the Commissioner of Social Security may not de-*
11 *crease the monthly amount payable to an individual*
12 *under a program described in subsection (e) that is*
13 *paid when regularly due—*

14 “(A) *in the case of benefits under title II or*
15 *VIII, by more than 10 percent of the amount of*
16 *the benefit payable to the person for that month*
17 *under such title; and*

18 “(B) *in the case of benefits under title XVI,*
19 *by an amount greater than the lesser of—*

20 “(i) *the amount of the benefit payable*
21 *to the person for that month; or*

22 “(ii) *an amount equal to 10 percent of*
23 *the person’s income for that month (includ-*
24 *ing such monthly benefit but excluding pay-*
25 *ments under title II when recovery is also*

1 *made from title II payments and excluding*
2 *income excluded pursuant to section*
3 *1612(b)).*

4 “(2) *EXCEPTION.—Paragraph (1) shall not*
5 *apply if—*

6 “(A) *the person or the spouse of the person*
7 *was involved in willful misrepresentation or con-*
8 *cealment of material information in connection*
9 *with the amount incorrectly paid; or*

10 “(B) *the person so requests.*

11 “(c) *NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT*
12 *UNDER TITLE VIII OR XVI.—In any case in which the*
13 *Commissioner of Social Security takes action in accordance*
14 *with subsection (a) to recover an amount incorrectly paid*
15 *to any person, neither that person, nor (with respect to the*
16 *program described in subsection (e)(3)) any individual*
17 *whose eligibility for benefits under such program or whose*
18 *amount of such benefits, is determined by considering any*
19 *part of that person’s income, shall, as a result of such ac-*
20 *tion—*

21 “(1) *become eligible for benefits under the pro-*
22 *gram described in paragraph (2) or (3) of subsection*
23 *(e); or*

1 “(2) if such person or individual is otherwise so
2 eligible, become eligible for increased benefits under
3 such program.

4 “(d) *INAPPLICABILITY OF PROHIBITION AGAINST AS-*
5 *SESSMENT AND LEGAL PROCESS.*—Section 207 shall not
6 apply to actions taken under the provisions of this section
7 to decrease amounts payable under titles II and XVI.

8 “(e) *PROGRAMS DESCRIBED.*—The programs described
9 in this subsection are the following:

10 “(1) The old-age, survivors, and disability insur-
11 ance benefits program under title II.

12 “(2) The special benefits for certain World War
13 II veterans program under title VIII.

14 “(3) The supplemental security income benefits
15 program under title XVI (including, for purposes of
16 this section, State supplementary payments paid by
17 the Commissioner pursuant to an agreement under
18 section 1616(a) of this Act or section 212(b) of Public
19 Law 93–66).”.

20 (b) *CONFORMING AMENDMENTS.*—

21 (1) Section 204(g) of the Social Security Act (42
22 U.S.C. 404(g)) is amended to read as follows:

23 “(g) For provisions relating to the cross-program re-
24 covery of overpayments made under programs administered
25 by the Commissioner of Social Security, see section 1147.”.

1 (2) *Section 808 of the Social Security Act (42*
2 *U.S.C. 1008) is amended—*

3 (A) *in subsection (a)(1)—*

4 (i) *by striking subparagraph (B);*

5 (ii) *in the matter preceding subpara-*
6 *graph (A), by striking “any payment” and*
7 *all that follows through “under this title”*
8 *and inserting “any payment under this*
9 *title”; and*

10 (iii) *by striking “; or” and inserting a*
11 *period;*

12 (B) *by striking subsection (b) and redesign-*
13 *ating subsections (c), (d), and (e) as subsections*
14 *(b), (c), and (d), respectively; and*

15 (C) *by adding at the end the following:*

16 “(e) *CROSS-PROGRAM RECOVERY OF OVERPAY-*
17 *MENTS.—For provisions relating to the cross-program re-*
18 *covery of overpayments made under programs administered*
19 *by the Commissioner of Social Security, see section 1147.”.*

20 (3) *Section 1147A of the Social Security Act (42*
21 *U.S.C. 1320b–18) is repealed.*

22 (4) *Section 1631(b) of the Social Security Act*
23 *(42 U.S.C. 1383(b)) is amended—*

24 (A) *in paragraph (1)(B)—*

1 (i) by striking “excluding any other”
 2 and inserting “excluding payments under
 3 title II when recovery is made from title II
 4 payments pursuant to section 1147 and ex-
 5 cluding”; and

6 (ii) by striking “50 percent of”; and

7 (B) by striking paragraph (6) and inserting
 8 the following:

9 “(6) For provisions relating to the cross-program re-
 10 covery of overpayments made under programs administered
 11 by the Commissioner of Social Security, see section 1147.”.

12 (c) *EFFECTIVE DATE.*—The amendments and repeal
 13 made by this section shall take effect on the date of enact-
 14 ment of this Act, and shall be effective with respect to over-
 15 payments under titles II, VIII, and XVI of the Social Secu-
 16 rity Act that are outstanding on or after such date.

17 **SEC. 212. PROHIBITION ON PAYMENT OF TITLE II BENEFITS**

18 **TO PERSONS NOT AUTHORIZED TO WORK IN**

19 **THE UNITED STATES.**

20 (a) *FULLY INSURED AND CURRENTLY INSURED INDI-*
 21 *VIDUALS.*—Section 214 (42 U.S.C. 414) is amended—

22 (1) in subsection (a), by inserting before the pe-
 23 riod at the end the following: “, and who satisfies the
 24 criterion specified in subsection (c)”;

1 (2) in subsection (b), by inserting before the pe-
2 riod at the end the following: “, and who satisfies the
3 criterion specified in subsection (c)”;

4 (3) by adding at the end the following:

5 “(c) For purposes of subsections (a) and (b), the cri-
6 terion specified in this subsection is that the individual,
7 if not a United States citizen or national, has been assigned
8 a social security account number that was, at the time of
9 assignment, or at any later time, consistent with the re-
10 quirements of subclause (I) or (III) of section
11 205(c)(2)(B)(i).”.

12 (b) *DISABILITY BENEFITS*.—Section 223(a)(1) of the
13 Social Security Act (42 U.S.C. 423(a)(1)) is amended—

14 (1) by redesignating subparagraphs (C) and (D)
15 as subparagraphs (D) and (E), respectively; and

16 (2) by inserting after subparagraph (B), the fol-
17 lowing:

18 “(C) if not a United States citizen or national,
19 has been assigned a social security account number
20 that was, at the time of assignment, or at any later
21 time, consistent with the requirements of subclause (I)
22 or (III) of section 205(c)(2)(B)(i).”.

23 (c) *EFFECTIVE DATE*.—The amendments made by this
24 section apply to benefit applications filed on or after Janu-
25 ary 1, 2004.

1 **TITLE III—ATTORNEY REP-**
2 **RESENTATIVE FEE PAYMENT**
3 **SYSTEM IMPROVEMENTS**

4 **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

5 (a) *IN GENERAL.*—Section 206(d)(2)(A) of the Social
6 Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

7 (1) by inserting “, except that the maximum
8 amount of the assessment may not exceed the greater
9 of \$75 or the adjusted amount as provided pursuant
10 to the following two sentences” after “subparagraph
11 (B)”; and

12 (2) by adding at the end the following: “In the
13 case of any calendar year beginning after the amend-
14 ments made by section 301 of the Social Security
15 Protection Act of 2003 take effect, the dollar amount
16 specified in the preceding sentence (including a pre-
17 viously adjusted amount) shall be adjusted annually
18 under the procedures used to adjust benefit amounts
19 under section 215(i)(2)(A)(ii), except such adjustment
20 shall be based on the higher of \$75 or the previously
21 adjusted amount that would have been in effect for
22 December of the preceding year, but for the rounding
23 of such amount pursuant to the following sentence.
24 Any amount so adjusted that is not a multiple of \$1

1 shall be rounded to the next lowest multiple of \$1,
2 but in no case less than \$75.”

3 (b) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply with respect to fees for representation
5 of claimants which are first required to be certified or paid
6 under section 206 of the Social Security Act on or after
7 the first day of the first month that begins after 180 days
8 after the date of the enactment of this Act.

9 **SEC. 302. GAO STUDY REGARDING FEE PAYMENT PROCESS**
10 **FOR CLAIMANT REPRESENTATIVES.**

11 (a) *STUDY.*—

12 (1) *IN GENERAL.*—The Comptroller General of
13 the United States shall study and evaluate the ap-
14 pointment and payment of claimant representatives
15 under titles II and XVI of the Social Security Act (42
16 U.S.C. 401 et seq., 1381 et seq.).

17 (2) *CONSULTATION REQUIRED.*—The Comptroller
18 General shall consult with beneficiaries under title II
19 of such Act, beneficiaries under title XVI of such Act,
20 claimant representatives of beneficiaries under such
21 titles, and other interested parties, in conducting the
22 study and evaluation required under paragraph (1).

23 (b) *REPORT.*—Not later than 2 years after the date
24 of enactment of this Act, the Comptroller General shall sub-
25 mit to the Committee on Ways and Means of the House

1 of Representatives and the Committee on Finance of the
2 Senate a report that includes the following:

3 (1) A survey of the relevant characteristics of
4 claimant representatives that provides statistically
5 significant results for characteristics which include
6 (but are not limited to)—

7 (A) qualifications and experience;

8 (B) the type of employment of such rep-
9 resentatives, such as with an advocacy group,
10 State or local government, or insurance or other
11 company;

12 (C) geographical distribution between urban
13 and rural areas;

14 (D) the nature of claimants' cases, such as
15 whether the cases are for disability insurance
16 benefits only, supplemental security income bene-
17 fits only, or concurrent benefits;

18 (E) the relationship of such representatives
19 to claimants, such as whether the representative
20 is a friend, family member, or client of the
21 claimant; and

22 (F) the amount of compensation (if any)
23 paid to the representatives and the method of
24 payment of such compensation.

1 (2) *An assessment of the quality and effectiveness*
2 *of the services provided by claimant representatives,*
3 *including a comparison of claimant satisfaction or*
4 *complaints and benefit outcomes, adjusted for dif-*
5 *ferences in representatives' caseload, claimants' diag-*
6 *nostic group, level of decision, and other relevant fac-*
7 *tors.*

8 (3) *An assessment of the costs and benefits of the*
9 *appointment and payment of representatives with re-*
10 *spect to claimant satisfaction or complaints, benefit*
11 *outcomes, and program administration.*

12 (4) *An assessment of the potential results, in-*
13 *cluding the effect on claimants and program adminis-*
14 *tration, of extending to title XVI of the Social Secu-*
15 *rity Act the fee withholding procedures which apply*
16 *under title II of that Act and of allowing non-attor-*
17 *ney representatives to be subject to any fee with-*
18 *holding procedures applicable under title II and XVI*
19 *of such Act, and whether the rules and procedures em-*
20 *ployed by the Commissioner of Social Security to*
21 *evaluate the qualifications and performance of claim-*
22 *ant representatives should be revised prior to any ex-*
23 *tensions of fee withholding.*

1 **TITLE IV—MISCELLANEOUS AND**
2 **TECHNICAL AMENDMENTS**
3 **Subtitle A—Amendments Relating**
4 **to the Ticket to Work and Work**
5 **Incentives Improvement Act of**
6 **1999**

7 **SEC. 401. ELIMINATION OF DEMONSTRATION AUTHORITY**
8 **SUNSET DATE.**

9 *Section 234(d)(2) of the Social Security Act (42*
10 *U.S.C. 434(d)(2)) is amended—*

- 11 *(1) in the paragraph heading, by striking “TER-*
12 *MINATION AND FINAL” and inserting “FINAL”; and*
13 *(2) by striking the first sentence.*

14 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
15 **IN CONNECTION WITH DEMONSTRATION**
16 **PROJECTS PROVIDING FOR REDUCTIONS IN**
17 **DISABILITY INSURANCE BENEFITS BASED ON**
18 **EARNINGS.**

19 *Section 302(c) of the Ticket to Work and Work Incen-*
20 *tives Improvement Act of 1999 (42 U.S.C. 434 note) is*
21 *amended by striking “(42 U.S.C. 401 et seq.),” and insert-*
22 *ing “(42 U.S.C. 401 et seq.) and the requirements of section*
23 *1148 of such Act (42 U.S.C. 1320b–19) as they relate to*
24 *the program established under title II of such Act,”.*

1 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
2 **VIDING FOR REDUCTIONS IN DISABILITY IN-**
3 **SURANCE BENEFITS BASED ON EARNINGS.**

4 *Section 302(f) of the Ticket to Work and Work Incen-*
5 *tives Improvement Act of 1999 (42 U.S.C. 434 note) is*
6 *amended to read as follows:*

7 “(f) *EXPENDITURES.*—*Administrative expenses for*
8 *demonstration projects under this section shall be paid from*
9 *funds available for the administration of title II or XVIII*
10 *of the Social Security Act, as appropriate. Benefits payable*
11 *to or on behalf of individuals by reason of participation*
12 *in projects under this section shall be made from the Federal*
13 *Disability Insurance Trust Fund and the Federal Old-Age*
14 *and Survivors Insurance Trust Fund, as determined appro-*
15 *priate by the Commissioner of Social Security, and from*
16 *the Federal Hospital Insurance Trust Fund and the Federal*
17 *Supplementary Medical Insurance Trust Fund, as deter-*
18 *mined appropriate by the Secretary of Health and Human*
19 *Services, from funds available for benefits under such title*
20 *II or XVIII.”.*

21 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
22 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
23 **UALS.**

24 (a) *FEDERAL WORK INCENTIVES OUTREACH PRO-*
25 *GRAM.*—

1 (1) *IN GENERAL.*—Section 1149(c)(2) of the So-
2 cial Security Act (42 U.S.C. 1320b–20(c)(2)) is
3 amended to read as follows:

4 “(2) *DISABLED BENEFICIARY.*—The term ‘dis-
5 abled beneficiary’ means an individual—

6 “(A) who is a disabled beneficiary as de-
7 fined in section 1148(k)(2) of this Act;

8 “(B) who is receiving a cash payment de-
9 scribed in section 1616(a) of this Act or a sup-
10 plementary payment described in section
11 212(a)(3) of Public Law 93–66 (without regard
12 to whether such payment is paid by the Commis-
13 sioner pursuant to an agreement under section
14 1616(a) of this Act or under section 212(b) of
15 Public Law 93–66);

16 “(C) who, pursuant to section 1619(b) of
17 this Act, is considered to be receiving benefits
18 under title XVI of this Act; or

19 “(D) who is entitled to benefits under part
20 A of title XVIII of this Act by reason of the pe-
21 nultimate sentence of section 226(b) of this Act.”.

22 (2) *EFFECTIVE DATE.*—The amendment made by
23 this subsection shall apply with respect to grants, co-
24 operative agreements, or contracts entered into on or
25 after the date of the enactment of this Act.

1 (b) *STATE GRANTS FOR WORK INCENTIVES ASSIST-*
2 *ANCE.*—

3 (1) *DEFINITION OF DISABLED BENEFICIARY.*—
4 Section 1150(g)(2) of such Act (42 U.S.C. 1320b-
5 21(g)(2)) is amended to read as follows:

6 “(2) *DISABLED BENEFICIARY.*—The term ‘dis-
7 abled beneficiary’ means an individual—

8 “(A) who is a disabled beneficiary as de-
9 fined in section 1148(k)(2) of this Act;

10 “(B) who is receiving a cash payment de-
11 scribed in section 1616(a) of this Act or a sup-
12 plementary payment described in section
13 212(a)(3) of Public Law 93-66 (without regard
14 to whether such payment is paid by the Commis-
15 sioner pursuant to an agreement under section
16 1616(a) of this Act or under section 212(b) of
17 Public Law 93-66);

18 “(C) who, pursuant to section 1619(b) of
19 this Act, is considered to be receiving benefits
20 under title XVI of this Act; or

21 “(D) who is entitled to benefits under part
22 A of title XVIII of this Act by reason of the pe-
23 nultimate sentence of section 226(b) of this Act.”.

24 (2) *ADVOCACY OR OTHER SERVICES NEEDED TO*
25 *MAINTAIN GAINFUL EMPLOYMENT.*—Section

1 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is
2 amended by striking “secure or regain” and inserting
3 “secure, maintain, or regain”.

4 (3) *EFFECTIVE DATE.*—The amendments made
5 by this subsection shall apply with respect to pay-
6 ments provided after the date of the enactment of this
7 Act.

8 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**
9 **MENT FOR CERTAIN PURPOSES OF INDI-**
10 **VIDUAL WORK PLANS UNDER THE TICKET TO**
11 **WORK AND SELF-SUFFICIENCY PROGRAM.**

12 (a) *IN GENERAL.*—Section 1148(g)(1) of the Social Se-
13 curity Act (42 U.S.C. 1320b-19(g)(1)) is amended by add-
14 ing at the end, after and below subparagraph (E), the fol-
15 lowing:

16 “An individual work plan established pursuant to
17 this subsection shall be treated, for purposes of section
18 51(d)(6)(B)(i) of the Internal Revenue Code of 1986,
19 as an individualized written plan for employment
20 under a State plan for vocational rehabilitation serv-
21 ices approved under the Rehabilitation Act of 1973.”.

22 (b) *EFFECTIVE DATE.*—The amendment made by sub-
23 section (a) shall take effect as if included in section 505
24 of the Ticket to Work and Work Incentives Improvement
25 Act of 1999 (Public Law 106-170; 113 Stat. 1921).

1 **SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK**
2 **AND SELF-SUFFICIENCY PROGRAM.**

3 (a) *GAO REPORT.*—Not later than 12 months after the
4 date of enactment of this Act, the Comptroller General of
5 the United States shall submit a report to Congress regard-
6 ing the Ticket to Work and Self-Sufficiency Program estab-
7 lished under section 1148 of the Social Security Act (42
8 U.S.C. 1320b–19) that—

9 (1) *examines the annual and interim reports*
10 *issued by States, the Ticket to Work and Work Incen-*
11 *tives Advisory Panel established under section 101(f)*
12 *of the Ticket to Work and Work Incentives Improve-*
13 *ment Act of 1999 (42 U.S.C. 1320b–19 note), and the*
14 *Commissioner of Social Security regarding such pro-*
15 *gram;*

16 (2) *assesses the effectiveness of the activities car-*
17 *ried out under such program; and*

18 (3) *recommends such legislative or administra-*
19 *tive changes as the Comptroller General determines*
20 *are appropriate to improve the effectiveness of such*
21 *program.*

1 **Subtitle B—Miscellaneous**
2 **Amendments**

3 **SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN**
4 **REMAND CASES FULLY FAVORABLE TO THE**
5 **CLAIMANT.**

6 (a) *IN GENERAL.*—Section 205(g) of the Social Secu-
7 rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-
8 tence by striking “and a transcript” and inserting “and,
9 in any case in which the Commissioner has not made a
10 decision fully favorable to the individual, a transcript”.

11 (b) *EFFECTIVE DATE.*—The amendment made by this
12 section shall apply with respect to final determinations
13 issued (upon remand) on or after the date of the enactment
14 of this Act.

15 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
16 **FROM THE UNITED STATES.**

17 (a) *IN GENERAL.*—Section 202(n) of the Social Secu-
18 rity Act (42 U.S.C. 402(n)) is amended—

19 (1) in paragraph (1), by striking “section 241(a)
20 (other than under paragraph (1)(C) or (1)(E) thereof)
21 of the Immigration and Nationality Act” and insert-
22 ing “section 237(a) of the Immigration and Nation-
23 ality Act (other than under paragraph (1)(C) of such
24 section) or under section 212(a)(6)(A) of such Act”;

1 (2) in paragraph (2), by striking “section 241(a)
2 of the Immigration and Nationality Act (other than
3 under paragraph (1)(C) or (1)(E) thereof)” and in-
4 serting “section 237(a) of the Immigration and Na-
5 tionality Act (other than under paragraph (1)(C) of
6 such section) or under section 212(a)(6)(A) of such
7 Act”;

8 (3) in paragraph (3), by striking “paragraph
9 (19) of section 241(a) of the Immigration and Nation-
10 ality Act (relating to persecution of others on account
11 of race, religion, national origin, or political opinion,
12 under the direction of or in association with the Nazi
13 government of Germany or its allies) shall be consid-
14 ered to have been deported under such paragraph
15 (19)” and inserting “paragraph (4)(D) of section
16 241(a) of the Immigration and Nationality Act (re-
17 lating to participating in Nazi persecutions or geno-
18 cide) shall be considered to have been deported under
19 such paragraph (4)(D)”;

20 (4) in paragraph (3) (as amended by paragraph
21 (3) of this subsection), by striking “241(a)” and in-
22 serting “237(a)”.

23 (b) *TECHNICAL CORRECTIONS.*—

24 (1) *TERMINOLOGY REGARDING REMOVAL FROM*
25 *THE UNITED STATES.*—Section 202(n) of the Social

1 *Security Act (42 U.S.C. 402(n)) (as amended by sub-*
2 *section (a)) is amended further—*

3 *(A) by striking “deportation” each place it*
4 *appears and inserting “removal”;*

5 *(B) by striking “deported” each place it ap-*
6 *pears and inserting “removed”; and*

7 *(C) in the heading, by striking “Deporta-*
8 *tion” and inserting “Removal”.*

9 (2) *REFERENCES TO THE SECRETARY OF HOME-*
10 *LAND SECURITY.—Section 202(n) of the Social Secu-*
11 *rity Act (42 U.S.C. 402(n)) (as amended by sub-*
12 *section (a) and paragraph (1)) is amended further by*
13 *inserting “or the Secretary of Homeland Security”*
14 *after “the Attorney General” each place it appears.*

15 (c) *EFFECTIVE DATES.—*

16 (1) *IN GENERAL.—The amendment made by—*

17 *(A) subsection (a)(1) shall apply to individ-*
18 *uals with respect to whom the Commissioner of*
19 *Social Security receives a removal notice after*
20 *the date of the enactment of this Act;*

21 *(B) subsection (a)(2) shall apply with re-*
22 *spect to notifications of removals received by the*
23 *Commissioner of Social Security after the date of*
24 *enactment of this Act; and*

1 *(B) Section 221(i)(3) of the Social Security Act*
2 *(42 U.S.C. 421(i)(3)).*

3 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**
4 **CERTAIN SURVIVOR BENEFITS.**

5 *(a) WIDOWS.—Section 216(c) of the Social Security*
6 *Act (42 U.S.C. 416(c)) is amended—*

7 *(1) by redesignating subclauses (A) through (C)*
8 *of clause (6) as subclauses (i) through (iii), respec-*
9 *tively;*

10 *(2) by redesignating clauses (1) through (6) as*
11 *clauses (A) through (F), respectively;*

12 *(3) in clause (E) (as redesignated), by inserting*
13 *“except as provided in paragraph (2),” before “she*
14 *was married”;*

15 *(4) by inserting “(1)” after “(c)”;* and

16 *(5) by adding at the end the following:*

17 *“(2) The requirements of paragraph (1)(E) in connec-*
18 *tion with the surviving wife of an individual shall be treat-*
19 *ed as satisfied if—*

20 *“(A) the individual had been married prior to*
21 *the individual’s marriage to the surviving wife,*

22 *“(B) the prior wife was institutionalized during*
23 *the individual’s marriage to the prior wife due to*
24 *mental incompetence or similar incapacity,*

1 “(C) during the period of the prior wife’s insti-
2 tutionalization, the individual would have divorced
3 the prior wife and married the surviving wife, but the
4 individual did not do so because such divorce would
5 have been unlawful, by reason of the prior wife’s in-
6 stitutionalization, under the laws of the State in
7 which the individual was domiciled at the time (as
8 determined based on evidence satisfactory to the Com-
9 missioner of Social Security),

10 “(D) the prior wife continued to remain institu-
11 tionalized up to the time of her death, and

12 “(E) the individual married the surviving wife
13 within 60 days after the prior wife’s death.”.

14 (b) WIDOWERS.—Section 216(g) of such Act (42
15 U.S.C. 416(g)) is amended—

16 (1) by redesignating subclauses (A) through (C)
17 of clause (6) as subclauses (i) through (iii), respec-
18 tively;

19 (2) by redesignating clauses (1) through (6) as
20 clauses (A) through (F), respectively;

21 (3) in clause (E) (as redesignated), by inserting
22 “except as provided in paragraph (2),” before “he was
23 married”;

24 (4) by inserting “(1)” after “(g)”; and

25 (5) by adding at the end the following:

1 “(2) *The requirements of paragraph (1)(E) in connec-*
2 *tion with the surviving husband of an individual shall be*
3 *treated as satisfied if—*

4 “(A) *the individual had been married prior to*
5 *the individual’s marriage to the surviving husband,*

6 “(B) *the prior husband was institutionalized*
7 *during the individual’s marriage to the prior husband*
8 *due to mental incompetence or similar incapacity,*

9 “(C) *during the period of the prior husband’s in-*
10 *stitutionalization, the individual would have divorced*
11 *the prior husband and married the surviving hus-*
12 *band, but the individual did not do so because such*
13 *divorce would have been unlawful, by reason of the*
14 *prior husband’s institutionalization, under the laws*
15 *of the State in which the individual was domiciled at*
16 *the time (as determined based on evidence satisfactory*
17 *to the Commissioner of Social Security),*

18 “(D) *the prior husband continued to remain in-*
19 *stitutionalized up to the time of his death, and*

20 “(E) *the individual married the surviving hus-*
21 *band within 60 days after the prior husband’s*
22 *death.”.*

23 (c) *CONFORMING AMENDMENT.—Section 216(k) of*
24 *such Act (42 U.S.C. 416(k)) is amended by striking “clause*
25 *(5) of subsection (c) or clause (5) of subsection (g)” and*

1 inserting “clause (E) of subsection (c)(1) or clause (E) of
2 subsection (g)(1)”.

3 (d) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall be effective with respect to applications for ben-*
5 *efits under title II of the Social Security Act filed during*
6 *months ending after the date of the enactment of this Act.*

7 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA**
8 **TAX EXEMPTIONS FOR AN INDIVIDUAL**
9 **WHOSE EARNINGS ARE SUBJECT TO THE**
10 **LAWS OF A TOTALIZATION AGREEMENT PART-**
11 **NER.**

12 *Sections 1401(c), 3101(c), and 3111(c) of the Internal*
13 *Revenue Code of 1986 are each amended by striking “to*
14 *taxes or contributions for similar purposes under” and in-*
15 *serting “exclusively to the laws applicable to”.*

16 **SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM**
17 **FOR PUBLIC EMPLOYEES.**

18 (a) *IN GENERAL.*—*Section 218(d)(6)(C) of the Social*
19 *Security Act (42 U.S.C. 418(d)(6)(C)) is amended by strik-*
20 *ing “the State of Alaska, California, Connecticut, Florida,*
21 *Georgia, Illinois, Massachusetts, Minnesota, Nevada, New*
22 *Jersey, New Mexico, New York, North Dakota, Pennsyl-*
23 *vania, Rhode Island, Tennessee, Texas, Vermont, Wash-*
24 *ington, Wisconsin, or Hawaii” and inserting “a State”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) takes effect on January 1, 2003.*

3 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVI-**
4 **SORY BOARD.**

5 (a) *IN GENERAL.*—*Subsection (f) of section 703 of the*
6 *Social Security Act (42 U.S.C. 903(f)) is amended to read*
7 *as follows:*

8 “*Compensation, Expenses, and Per Diem*
9 “(f) *A member of the Board shall, for each day (includ-*
10 *ing traveltime) during which the member is attending meet-*
11 *ings or conferences of the Board or otherwise engaged in*
12 *the business of the Board, be compensated at the daily rate*
13 *of basic pay for level IV of the Executive Schedule. While*
14 *-serving on business of the Board away from their homes*
15 *or regular places of business, members may be allowed trav-*
16 *el expenses, including per diem in lieu of subsistence, as*
17 *authorized by section 5703 of title 5, United States Code,*
18 *for persons in the Government employed intermittently.”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
20 *section shall be effective as of January 1, 2003.*

1 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
2 **MENT FOR GOVERNMENT PENSION OFFSET**
3 **EXEMPTION.**

4 (a) *WIFE'S INSURANCE BENEFITS.*—Section 202(b)(4)
5 of the Social Security Act (42 U.S.C. 402(b)(4)) is amend-
6 ed—

7 (1) in subparagraph (A), by striking “if, on the
8 last day she was employed by such entity” and insert-
9 ing “if, during any portion of such service”; and

10 (2) in subparagraph (B)—

11 (A) in clause (ii), by striking “Subpara-
12 graph (A)(ii)” and inserting “Clauses (i) and
13 (ii) of subparagraph (A)”; and

14 (B) by adding at the end the following:

15 “(iii) Subparagraph (A)(i) shall not apply with re-
16 spect to monthly periodic benefits based in whole or in part
17 on service which constituted ‘employment’ as defined in sec-
18 tion 210 pursuant to an agreement executed with the Com-
19 missioner of Social Security under section 218, provided
20 that the wife (or divorced wife) was employed in such serv-
21 ice—

22 “(I) on the date of enactment of this clause and
23 such service was continuous throughout the 60-month
24 period ending on the last day the wife (or divorced
25 wife) was employed in the service of the State (or po-

1 *litical subdivision thereof, as defined in section*
2 *218(b)(2)), or*

3 *“(II) in the case of such an agreement that was*
4 *executed by the Commissioner of Social Security after*
5 *the date of enactment of this clause, on the date such*
6 *an agreement was executed by the Commissioner of*
7 *Social Security and such service was continuous*
8 *throughout the 60-month period ending on the last*
9 *day the wife (or divorced wife) was employed in the*
10 *service of the State (or political subdivision thereof, as*
11 *so defined).”.*

12 *(b) HUSBAND’S INSURANCE BENEFITS.—Section*
13 *202(c)(2) of such Act (42 U.S.C. 402(c)(2)) is amended—*

14 *(1) in subparagraph (A), by striking “if, on the*
15 *last day he was employed by such entity” and insert-*
16 *ing “if, during any portion of such service”; and*

17 *(2) in subparagraph (B)—*

18 *(A) in clause (ii), by striking “Subpara-*
19 *graph (A)(ii)” and inserting “Clauses (i) and*
20 *(ii) of subparagraph (A)”;* and

21 *(B) by adding at the end the following:*

22 *“(iii) Subparagraph (A)(i) shall not apply with re-*
23 *spect to monthly periodic benefits based in whole or in part*
24 *on service which constituted ‘employment’ as defined in sec-*
25 *tion 210 pursuant to an agreement executed with the Com-*

1 *missioner of Social Security under section 218, provided*
2 *that the husband (or divorced husband) was employed in*
3 *such service—*

4 “(I) *on the date of enactment of this clause and*
5 *such service was continuous throughout the 60-month*
6 *period ending on the last day the husband (or di-*
7 *vorced husband) was employed in the service of the*
8 *State (or political subdivision thereof, as defined in*
9 *section 218(b)(2)), or*

10 “(II) *in the case of such an agreement that was*
11 *executed by the Commissioner of Social Security after*
12 *the date of enactment of this clause, on the date such*
13 *an agreement was executed by the Commissioner of*
14 *Social Security and such service was continuous*
15 *throughout the 60-month period ending on the last*
16 *day the husband (or divorced husband) was employed*
17 *in the service of the State (or political subdivision*
18 *thereof, as so defined).”.*

19 (c) *WIDOW’S INSURANCE BENEFITS.—Section*
20 *202(e)(7) of such Act (42 U.S.C. 402(e)(7)) is amended—*

21 (1) *in subparagraph (A), by striking “if, on the*
22 *last day she was employed by such entity” and insert-*
23 *ing “if, during any portion of such service”; and*

24 (2) *in subparagraph (B)—*

1 (A) in clause (ii), by striking “Subpara-
2 graph (A)(ii)” and inserting “Clauses (i) and
3 (ii) of subparagraph (A)”; and

4 (B) by adding at the end the following:

5 “(iii) Subparagraph (A)(i) shall not apply with re-
6 spect to monthly periodic benefits based in whole or in part
7 on service which constituted ‘employment’ as defined in sec-
8 tion 210 pursuant to an agreement executed with the Com-
9 missioner of Social Security under section 218, provided
10 that the widow (or surviving divorced wife) was employed
11 in such service—

12 “(I) on the date of enactment of this clause and
13 such service was continuous throughout the 60-month
14 period ending on the last day the widow (or surviving
15 divorced wife) was employed in the service of the
16 State (or political subdivision thereof, as defined in
17 section 218(b)(2)), or

18 “(II) in the case of such an agreement that was
19 executed by the Commissioner of Social Security after
20 the date of enactment of this clause, on the date such
21 an agreement was executed by the Commissioner of
22 Social Security and such service was continuous
23 throughout the 60-month period ending on the last
24 day the widow (or surviving divorced wife) was em-

1 employed in the service of the State (or political subdivi-
2 sion thereof, as so defined).”.

3 (d) *WIDOWER’S INSURANCE BENEFITS.*—Section
4 202(f)(2) of such Act (42 U.S.C. 402(f)(2)) is amended—

5 (1) in subparagraph (A), by striking “if, on the
6 last day he was employed by such entity” and insert-
7 ing “if, during any portion of such service”; and

8 (2) in subparagraph (B)—

9 (A) in clause (ii), by striking “Subpara-
10 graph (A)(ii)” and inserting “Clauses (i) and
11 (ii) of subparagraph (A)”; and

12 (B) by adding at the end the following:

13 “(iii) Subparagraph (A)(i) shall not apply with re-
14 spect to monthly periodic benefits based in whole or in part
15 on service which constituted ‘employment’ as defined in sec-
16 tion 210 pursuant to an agreement executed with the Com-
17 missioner of Social Security under section 218, provided
18 that the widower (or surviving divorced husband) was em-
19 ployed in such service—

20 “(I) on the date of enactment of this clause and
21 such service was continuous throughout the 60-month
22 period ending on the last day the widower (or sur-
23 viving divorced husband) was employed in the service
24 of the State (or political subdivision thereof, as de-
25 fined in section 218(b)(2)), or

1 “(II) in the case of such an agreement that was
2 executed by the Commissioner of Social Security after
3 the date of enactment of this clause, on the date such
4 an agreement was executed by the Commissioner of
5 Social Security and such service was continuous
6 throughout the 60-month period ending on the last
7 day the widower (or surviving divorced husband) was
8 employed in the service of the State (or political sub-
9 division thereof, as so defined).”

10 (e) *MOTHER’S AND FATHER’S INSURANCE BENE-*
11 *FITS.*—Section 202(g)(4) of the such Act (42 U.S.C.
12 402(g)(4)) is amended—

13 (1) in subparagraph (A), by striking “if, on the
14 last day the individual was employed by such entity”
15 and inserting “if, during any portion of such serv-
16 ice”; and

17 (2) in subparagraph (B)—

18 (A) in clause (ii), by striking “Subpara-
19 graph (A)(ii)” and inserting “Clauses (i) and
20 (ii) of subparagraph (A)”; and

21 (B) by adding at the end the following:

22 “(iii) Subparagraph (A)(i) shall not apply with re-
23 spect to monthly periodic benefits based in whole or in part
24 on service which constituted ‘employment’ as defined in sec-
25 tion 210 pursuant to an agreement executed with the Com-

1 *missioner of Social Security under section 218, provided*
2 *that the individual was employed in such service—*

3 “(I) *on the date of enactment of this clause and*
4 *such service was continuous throughout the 60-month*
5 *period ending on the last day the individual was em-*
6 *ployed in the service of the State (or political subdivi-*
7 *sion thereof, as defined in section 218(b)(2)), or*

8 “(II) *in the case of such an agreement that was*
9 *executed by the Commissioner of Social Security after*
10 *the date of enactment of this clause, on the date such*
11 *an agreement was executed by the Commissioner of*
12 *Social Security and such service was continuous*
13 *throughout the 60-month period ending on the last*
14 *day the individual was employed in the service of the*
15 *State (or political subdivision thereof, as so de-*
16 *finied).”.*

17 (f) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply with respect to applications for benefits*
19 *under title II of the Social Security Act filed on or after*
20 *the first day of the first month that begins after the date*
21 *of the enactment of this Act, except that such amendments*
22 *shall not apply with respect to applications for benefits*
23 *under title II of the Social Security Act based on earnings*
24 *while in the service of any State (or political subdivision*

1 *thereof, as defined in section 218(b)(2) of the Social Secu-*
2 *rity Act)—*

3 (1) *if the last day of such service occurs before*
4 *December 31, 2003, or*

5 (2) *in any case in which the last day of such*
6 *service occurs before June 30, 2004, subject to a con-*
7 *tract for such service entered into prior to September*
8 *30, 2003.*

9 **SEC. 419. POST-1956 MILITARY WAGE CREDITS.**

10 (a) *PAYMENT TO THE SOCIAL SECURITY TRUST*
11 *FUNDS IN SATISFACTION OF OUTSTANDING OBLIGA-*
12 *TIONS.—Section 201 of the Social Security Act (42 U.S.C.*
13 *401) is amended by adding at the end the following:*

14 “(n) *Not later than July 1, 2004, the Secretary of the*
15 *Treasury shall transfer, from amounts in the general fund*
16 *of the Treasury that are not otherwise appropriated—*

17 “(1) *\$624,971,854 to the Federal Old-Age and*
18 *Survivors Insurance Trust Fund;*

19 “(2) *\$105,379,671 to the Federal Disability In-*
20 *surance Trust Fund; and*

21 “(3) *\$173,306,134 to the Federal Hospital Insur-*
22 *ance Trust Fund.*

23 *Amounts transferred in accordance with this subsection*
24 *shall be in satisfaction of certain outstanding obligations*
25 *for deemed wage credits for 2000 and 2001.”.*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *REPEAL OF AUTHORITY FOR ANNUAL APPRO-*
 3 *PRIATIONS AND RELATED ADJUSTMENTS TO COM-*
 4 *PENSATE THE SOCIAL SECURITY TRUST FUND FOR*
 5 *MILITARY WAGE CREDITS.*—*Section 229 of the Social*
 6 *Security Act (42 U.S.C. 429) is amended—*

7 (A) *by striking “(a)”*; and

8 (B) *by striking subsection (b).*

9 (2) *AMENDMENT TO REFLECT THE TERMINATION*
 10 *OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR*
 11 *2001 BY SECTION 8134 OF PUBLIC LAW 107–117.*—*Sec-*
 12 *tion 229(a)(2) of the Social Security Act (42 U.S.C.*
 13 *429(a)(2)), as amended by paragraph (1), is amended*
 14 *by inserting “and before 2002” after “1977”.*

15 ***Subtitle C—Technical Amendments***

16 ***SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-*** 17 ***SIBLE AGENCY HEAD.***

18 *Section 1143 of the Social Security Act (42*
 19 *U.S.C. 1320b–13) is amended—*

20 (1) *by striking “Secretary” the first place it ap-*
 21 *pears and inserting “Commissioner of Social Secu-*
 22 *urity”*; and

23 (2) *by striking “Secretary” each subsequent place*
 24 *it appears and inserting “Commissioner”.*

1 **SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-**
2 **MENT BENEFITS OF MINISTERS.**

3 (a) *IN GENERAL.*—Section 211(a)(7) of the Social Se-
4 curity Act (42 U.S.C. 411(a)(7)) is amended by inserting
5 “, but shall not include in any such net earnings from self-
6 employment the rental value of any parsonage or any par-
7 sonage allowance (whether or not excluded under section
8 107 of the Internal Revenue Code of 1986) provided after
9 the individual retires, or any other retirement benefit re-
10 ceived by such individual from a church plan (as defined
11 in section 414(e) of such Code) after the individual retires”
12 before the semicolon.

13 (b) *EFFECTIVE DATE.*—The amendment made by this
14 section shall apply to years beginning before, on, or after
15 December 31, 1994.

16 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
17 **TIC EMPLOYMENT.**

18 (a) *AMENDMENT TO INTERNAL REVENUE CODE.*—Sec-
19 tion 3121(a)(7)(B) of the Internal Revenue Code of 1986
20 is amended by striking “described in subsection (g)(5)” and
21 inserting “on a farm operated for profit”.

22 (b) *AMENDMENT TO SOCIAL SECURITY ACT.*—Section
23 209(a)(6)(B) of the Social Security Act (42
24 U.S.C. 409(a)(6)(B)) is amended by striking “described in
25 section 210(f)(5)” and inserting “on a farm operated for
26 profit”.

1 *ness shall be treated as the gross income and deductions*
2 *of the spouse carrying on such trade or business or, if such*
3 *trade or business is jointly operated, treated as the gross*
4 *income and deductions of each spouse on the basis of their*
5 *respective distributive share of the gross income and deduc-*
6 *tions;”.*

7 (b) *INTERNAL REVENUE CODE OF 1986 AMEND-*
8 *MENT.—Section 1402(a)(5)(A) of the Internal Revenue*
9 *Code of 1986 is amended by striking “all of the gross in-*
10 *come” and all that follows and inserting “the gross income*
11 *and deductions attributable to such trade or business shall*
12 *be treated as the gross income and deductions of the spouse*
13 *carrying on such trade or business or, if such trade or busi-*
14 *ness is jointly operated, treated as the gross income and*
15 *deductions of each spouse on the basis of their respective*
16 *distributive share of the gross income and deductions; and”.*

17 **SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RE-**
18 **TIREMENT AND SURVIVORS’ IMPROVEMENT**
19 **ACT OF 2001.**

20 (a) *QUORUM RULES.—Section 15(j)(7) of the Railroad*
21 *Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended*
22 *by striking “entire Board of Trustees” and inserting*
23 *“Trustees then holding office”.*

1 (b) *POWERS OF THE BOARD OF TRUSTEES.*—Section
2 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C.
3 231n(j)(4)) is amended to read as follows:

4 “(4) *POWERS OF THE BOARD OF TRUSTEES.*—
5 *The Board of Trustees shall—*

6 “(A) *retain independent advisers to assist it*
7 *in the formulation and adoption of its invest-*
8 *ment guidelines;*

9 “(B) *invest assets of the Trust in a manner*
10 *consistent with such investment guidelines, either*
11 *directly or through the retention of independent*
12 *investment managers;*

13 “(C) *adopt bylaws and other rules to govern*
14 *its operations;*

15 “(D) *employ professional staff, and contract*
16 *with outside advisers, including the Railroad Re-*
17 *retirement Board, to provide legal, accounting, in-*
18 *vestment advisory or management services (com-*
19 *penetration for which may be on a fixed contract*
20 *fee basis or on such other terms as are customary*
21 *for such services), or other services necessary for*
22 *the proper administration of the Trust;*

23 “(E) *sue and be sued and participate in*
24 *legal proceedings, have and use a seal, conduct*
25 *business, carry on operations, and exercise its*

1 *powers within or without the District of Colum-*
2 *bia, form, own, or participate in entities of any*
3 *kind, enter into contracts and agreements nec-*
4 *essary to carry out its business purposes, lend*
5 *money for such purposes, and deal with property*
6 *as security for the payment of funds so loaned,*
7 *and possess and exercise any other powers ap-*
8 *propriate to carry out the purposes of the Trust;*

9 *“(F) pay administrative expenses of the*
10 *Trust from the assets of the Trust; and*

11 *“(G) transfer money to the disbursing agent*
12 *or as otherwise provided in section 7(b)(4), to*
13 *pay benefits payable under this Act from the as-*
14 *sets of the Trust.”.*

15 (c) *STATE AND LOCAL TAXES.*—Section 15(j)(6) of the
16 *Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is*
17 *amended to read as follows:*

18 “(6) *STATE AND LOCAL TAXES.*—The Trust shall
19 *be exempt from any income, sales, use, property, or*
20 *other similar tax or fee imposed or levied by a State,*
21 *political subdivision, or local taxing authority. The*
22 *district courts of the United States shall have original*
23 *jurisdiction over a civil action brought by the Trust*
24 *to enforce this subsection and may grant equitable or*
25 *declaratory relief requested by the Trust.”.*

1 (d) *FUNDING.*—Section 15(j)(8) of the Railroad Re-
2 tirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

3 (e) *TRANSFERS.*—

4 (1) Section 15(k) of the Railroad Retirement Act
5 of 1974 (45 U.S.C. 231n(k)) is amended by adding at
6 the end the following: “At the direction of the Rail-
7 road Retirement Board, the National Railroad Re-
8 tirement Investment Trust shall transfer funds to the
9 Railroad Retirement Account.”.

10 (2) Section 15A(d)(2) of the Railroad Retirement
11 Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

12 (A) by inserting “or the Railroad Retire-
13 ment Account” after “National Railroad Retire-
14 ment Investment Trust” the second place it ap-
15 pears;

16 (B) by inserting “or the Railroad Retire-
17 ment Board” after “National Railroad Retire-
18 ment Investment Trust” the third place it ap-
19 pears;

20 (C) by inserting “(either directly or through
21 a commingled account consisting only of such ob-
22 ligations)” after “United States” the first place
23 it appears; and

1 (D) in the third sentence, by inserting be-
2 fore the period at the end the following: “or to
3 purchase such additional obligations”.

4 (3) Paragraph (4)(B)(ii) of section 7(b) of the
5 Railroad Retirement Act of 1974 (45 U.S.C.
6 231f(b)(4)(B)(ii)) is amended by inserting “quarterly
7 or at such other times as the Railroad Retirement
8 Board and the Board of Trustees of the National
9 Railroad Retirement Investment Trust may mutually
10 agree” after “amounts” the second place it appears.

11 (f) CLERICAL AMENDMENTS.—Section 15(j)(5) of the
12 Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is
13 amended—

14 (1) in subparagraph (B), by striking “trustee’s”
15 each place it appears and inserting “Trustee’s”;

16 (2) in subparagraph (C), by striking “trustee”
17 and “trustees” each place it appears and inserting
18 “Trustee” and “Trustees”, respectively; and

19 (3) in the matter preceding clause (i) of subpara-
20 graph (D), by striking “trustee” and inserting
21 “Trustee”.

1 ***Subtitle D—Amendments Related to***
 2 ***Title XVI***

3 ***SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFRE-***
 4 ***QUENT OR IRREGULAR INCOME AND CERTAIN***
 5 ***INTEREST OR DIVIDEND INCOME.***

6 (a) *INFREQUENT OR IRREGULAR INCOME.*—Section
 7 1612(b)(3) of the Social Security Act (42 U.S.C.
 8 1382a(b)(3)) is amended to read as follows—

9 “(3) in any calendar quarter, the first—

10 “(A) \$60 of unearned income, and

11 “(B) \$30 of earned income,

12 of such individual (and such spouse, if any) which,
 13 as determined in accordance with criteria prescribed
 14 by the Commissioner of Social Security, is received
 15 too infrequently or irregularly to be included;”.

16 (b) *INTEREST OR DIVIDEND INCOME.*—Section
 17 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is
 18 amended—

19 (1) in paragraph (21), by striking “and” at the
 20 end;

21 (2) in paragraph (22), by striking the period
 22 and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(23) interest or dividend income from re-
 25 sources—

1 “(A) not excluded under section 1613(a), or
2 “(B) excluded pursuant to Federal law
3 other than section 1613(a).”

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall be effective with respect to benefits payable for
6 months in calendar quarters that begin more than 90 days
7 after the date of the enactment of this Act.

8 **SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERI-**
9 **ODS.**

10 (a) *UNDERPAYMENTS OF BENEFITS.*—Section
11 1613(a)(7) of the Social Security Act (42 U.S.C.
12 1382b(a)(7)) is amended—

13 (1) by striking “6” and inserting “9”; and

14 (2) by striking “(or to the first 9 months fol-
15 lowing such month with respect to any amount so re-
16 ceived during the period beginning October 1, 1987,
17 and ending September 30, 1989)”.

18 (b) *ADVANCEABLE TAX CREDITS.*—Section
19 1613(a)(11) of the Social Security Act (42 U.S.C.
20 1382b(a)(11)) is amended to read as follows:

21 “(11) for the 9-month period beginning after the
22 month in which received—

23 “(A) notwithstanding section 203 of the
24 Economic Growth and Tax Relief Reconciliation
25 Act of 2001, any refund of Federal income taxes

1 *made to such individual (or such spouse) under*
2 *section 24 of the Internal Revenue Code of 1986*
3 *(relating to child tax credit) by reason of sub-*
4 *section (d) thereof; and*

5 *“(B) any refund of Federal income taxes*
6 *made to such individual (or such spouse) by rea-*
7 *son of section 32 of the Internal Revenue Code*
8 *of 1986 (relating to earned income tax credit),*
9 *and any payment made to such individual (or*
10 *such spouse) by an employer under section 3507*
11 *of such Code (relating to advance payment of*
12 *earned income credit);”.*

13 (c) *EFFECTIVE DATE.*—*The amendments made by this*
14 *section shall take effect on the date of enactment of this Act,*
15 *and shall apply to amounts described in paragraph (7) of*
16 *section 1613(a) of the Social Security Act and refunds of*
17 *Federal income taxes described in paragraph (11) of such*
18 *section, that are received by an eligible individual or eligi-*
19 *ble spouse on or after such date.*

20 **SEC. 432. MODIFICATION OF DEDICATED ACCOUNT RE-**
21 **QUIREMENTS.**

22 (a) *IN GENERAL.*—*Section 1631(a)(2)(F) of the Social*
23 *Security Act (42 U.S.C. 1383(a)(2)(F)) is amended—*

24 (1) *in clause (ii)(II)—*

25 (A) *in item (ff), by striking “or” at the end;*

1 (B) by redesignating item (gg) as item (hh);

2 (C) by inserting after item (ff) the fol-
3 lowing:

4 “(gg) reimbursement of expenditures incurred by
5 the representative payee that are for the good of such
6 individual; or”; and

7 (D) in the matter following item (hh) (as
8 redesignated by subparagraph (B)), by striking
9 “(gg), is related to the impairment (or combina-
10 tion of impairments)” and inserting “(hh), is ex-
11 pended for the good”; and

12 (2) in clause (iv), by inserting “, including with
13 respect to allowable expenses paid from the account in
14 accordance with clause (ii)(II)” before the period.

15 (b) *EFFECTIVE DATE*.—The amendments made by this
16 section take effect on January 1, 2004, and apply with re-
17 spect to allowable expenses incurred or accounts established
18 on or after that date.

19 **SEC. 433. ELIMINATION OF CERTAIN RESTRICTIONS ON THE**
20 **APPLICATION OF THE STUDENT EARNED IN-**
21 **COME EXCLUSION.**

22 (a) *IN GENERAL*.—Section 1612(b)(1) of the Social Se-
23 curity Act (42 U.S.C. 1382a(b)(1)) is amended by striking
24 “a child who” and inserting “under the age of 22 and”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall be effective with respect to benefits payable for*
 3 *months that begin on or after 1 year after the date of enact-*
 4 *ment of this Act.*

5 **SEC. 434. EXCLUSION OF AMERICORPS AND OTHER VOLUN-**
 6 **TEER BENEFITS FOR PURPOSES OF DETER-**
 7 **MINING SUPPLEMENTAL SECURITY INCOME**
 8 **ELIGIBILITY AND BENEFIT AMOUNTS AND SO-**
 9 **CIAL SECURITY DISABILITY INSURANCE ENTI-**
 10 **TLEMENT.**

11 (a) *IN GENERAL.*—

12 (1) *SSI.*—

13 (A) *INCOME.*—*Section 1612(b) of the Social*
 14 *Security Act (42 U.S.C. 1382a(b)) (as amended*
 15 *by section 430(a)(2)) is amended—*

16 (i) *in paragraph (22), by striking*
 17 *“and” at the end;*

18 (ii) *in paragraph (23), by striking the*
 19 *period and inserting “; and”; and*

20 (iii) *by adding at the end the fol-*
 21 *lowing:*

22 “(24) *any cash or in-kind benefit conferred upon*
 23 *(or paid on behalf of) an individual serving as a vol-*
 24 *unteer or participant in a program administered by*

1 *the Corporation for National and Community Service*
2 *for service in such program.”.*

3 (B) *SUBSTANTIAL GAINFUL ACTIVITY.*—*Sec-*
4 *tion 1614(a)(3) of the Social Security Act (42*
5 *U.S.C. 1382c(a)(3)) is amended by adding at the*
6 *end the following:*

7 “(K) *In determining under subparagraph (A) when*
8 *services performed or earnings derived from services dem-*
9 *onstrate an individual’s ability to engage in substantial*
10 *gainful activity, the Commissioner of Social Security shall*
11 *disregard services performed as a volunteer or participant*
12 *in any program administered by the Corporation for Na-*
13 *tional and Community Service, and any earnings derived*
14 *from such service.”.*

15 (2) *SSDI.*—*Section 223(d)(4) of such Act (42*
16 *U.S.C. 423(d)(4)) is amended by adding at the end*
17 *the following:*

18 “(C) *In determining under subparagraph (A) when*
19 *services performed or earnings derived from services dem-*
20 *onstrate an individual’s ability to engage in substantial*
21 *gainful activity, the Commissioner of Social Security shall*
22 *disregard services performed as a volunteer or participant*
23 *in any program administered by the Corporation for Na-*
24 *tional and Community Service, and any earnings derived*
25 *from such service.”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to benefits payable for months beginning*
3 *on or after 60 days after the date of enactment of this Act.*

4 **SEC. 435. EXCEPTION TO RETROSPECTIVE MONTHLY AC-**
5 **COUNTING FOR NONRECURRING INCOME.**

6 (a) *IN GENERAL.*—*Section 1611(c) of the Social Secu-*
7 *rity Act (42 U.S.C. 1382(c)) is amended by adding at the*
8 *end the following:*

9 “(9)(A) *Notwithstanding paragraphs (1) and (2), any*
10 *nonrecurring income which is paid to an individual in the*
11 *first month of any period of eligibility shall be taken into*
12 *account in determining the amount of the benefit under this*
13 *title of such individual (and his eligible spouse, if any) only*
14 *for that month, and shall not be taken into account in deter-*
15 *mining the amount of the benefit for any other month.*

16 “(B) *For purposes of subparagraph (A), payments to*
17 *an individual in varying amounts from the same or similar*
18 *source for the same or similar purpose shall not be consid-*
19 *ered to be nonrecurring income.”.*

20 (b) *DELETION OF OBSOLETE MATERIAL.*—*Section*
21 *1611(c)(2)(B) of the Social Security Act (42 U.S.C.*
22 *1382(c)(2)(B)) is amended to read as follows:*

23 “(B) *in the case of the first month following a*
24 *period of ineligibility in which eligibility is restored*
25 *after the first day of such month, bear the same ratio*

1 to the amount of the benefit which would have been
2 payable to such individual if eligibility had been re-
3 stored on the first day of such month as the number
4 of days in such month including and following the
5 date of restoration of eligibility bears to the total
6 number of days in such month.”

7 (c) *EFFECTIVE DATE.*—The amendments made by this
8 section shall be effective with respect to benefits payable for
9 months that begin on or after 1 year after the date of enact-
10 ment of this Act.

11 **SEC. 436. REMOVAL OF RESTRICTION ON PAYMENT OF BEN-**
12 **EFITS TO CHILDREN WHO ARE BORN OR WHO**
13 **BECOME BLIND OR DISABLED AFTER THEIR**
14 **MILITARY PARENTS ARE STATIONED OVER-**
15 **SEAS.**

16 (a) *IN GENERAL.*—Section 1614(a)(1)(B)(ii) of the So-
17 cial Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amend-
18 ed—

19 (1) by inserting “and” after “citizen of the
20 United States,”; and

21 (2) by striking “, and who,” and all that follows
22 and inserting a period.

23 (b) *EFFECTIVE DATE.*—The amendments made by this
24 section shall be effective with respect to benefits payable for

1 months beginning after the date of enactment of this Act,
 2 but only on the basis of an application filed after such date.

3 **SEC. 437. TREATMENT OF EDUCATION-RELATED INCOME**
 4 **AND RESOURCES.**

5 (a) *EXCLUSION FROM INCOME OF GIFTS PROVIDED*
 6 *FOR TUITION AND OTHER EDUCATION-RELATED FEES.*—
 7 Section 1612(b)(7) of the Social Security Act (42 U.S.C.
 8 1382a(b)(7)) is amended by striking “or fellowship received
 9 for use in paying” and inserting “fellowship, or gift (or
 10 portion of a gift) used to pay”.

11 (b) *EXCLUSION FROM RESOURCES FOR 9 MONTHS OF*
 12 *GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PRO-*
 13 *VIDED FOR TUITION AND OTHER EDUCATION-RELATED*
 14 *FEES.*—Section 1613(a) of the Social Security Act (42
 15 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is
 16 amended—

17 (1) in paragraph (13), by striking “and” at the
 18 end;

19 (2) in paragraph (14), by striking the period
 20 and inserting “; and”; and

21 (3) by inserting after paragraph (14) the fol-
 22 lowing:

23 “(15) for the 9-month period beginning after the
 24 month in which received, any grant, scholarship, fel-
 25 lowship, or gift (or portion of a gift) used to pay the

1 amount shall be increased to an amount equal to 150
 2 percent of the dollar amount applicable to an indi-
 3 vidual described in paragraph (1)(B)(ii).”; and

4 (2) in subparagraph (B)—

5 (A) by striking “and” the last place it ap-
 6 pears; and

7 (B) by inserting “, and to \$3,000 on Janu-
 8 ary 1, 2004” before the period.

9 (b) *COST-OF-LIVING ADJUSTMENT.*—Section
 10 1617(a)(1) of the Social Security Act (42 U.S.C.
 11 1382f(a)(1)) is amended by inserting “(a)(3)(B),” before
 12 “(b)(1)”.

13 (c) *EFFECTIVE DATES.*—

14 (1) *INCREASE.*—The amendments made by sub-
 15 section (a) shall take effect on January 1, 2004.

16 (2) *COST-OF-LIVING ADJUSTMENT.*—The amend-
 17 ment made by subsection (b) shall take effect on Jan-
 18 uary 1, 2005.

19 **SEC. 440. REVIEW OF STATE AGENCY BLINDNESS AND DIS-**
 20 **ABILITY DETERMINATIONS.**

21 Section 1633 of the Social Security Act (42 U.S.C.
 22 1383b) is amended by adding at the end the following:

23 “(e)(1) The Commissioner of Social Security shall re-
 24 view determinations, made by State agencies pursuant to
 25 subsection (a) in connection with applications for benefits

1 *under this title on the basis of blindness or disability, that*
2 *individuals who have attained 18 years of age are blind*
3 *or disabled. Any review by the Commissioner of Social Se-*
4 *curity of a State agency determination under this para-*
5 *graph shall be made before any action is taken to implement*
6 *the determination.*

7 “(2)(A) *In carrying out paragraph (1), the Commis-*
8 *sioner of Social Security shall review—*

9 “(i) *with respect to fiscal year 2004, at least 25*
10 *percent of all determinations referred to in paragraph*
11 *(1) that are made in such year after the later of—*

12 “(I) *March 31; and*

13 “(II) *the date of enactment of this sub-*
14 *section; and*

15 “(ii) *with respect to fiscal years after fiscal year*
16 *2004, at least 50 percent of all such determinations*
17 *that are made in each such fiscal year.*

18 “(B) *In conducting reviews pursuant to subparagraph*
19 *(A), the Commissioner of Social Security shall, to the extent*
20 *feasible, select for review those determinations which the*
21 *Commissioner of Social Security identifies as being the*
22 *most likely to be incorrect.”.*

Calendar No. 349

108TH CONGRESS
1ST SESSION

H. R. 743

[Report No. 108-176]

AN ACT

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

OCTOBER 29, 2003

Reported with an amendment

Calendar No. 349

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 108-176

SOCIAL SECURITY PROTECTION ACT OF 2003

OCTOBER 29, 2003.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 743]

together with

ADDITIONAL VIEWS

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, to pass.

CONTENTS

	Page
I. Summary, Background and Legislative History	3
A. Summary	3
B. Background and Need for Legislation	5
C. Legislative History	8
II. Explanation of the Bill	8
Title I—Protection of Beneficiaries	8
Subtitle A—Representative Payees	8
Sec. 101. Authority to reissue benefits misused by organiza- tional representative payees.	8
Sec. 102. Oversight of representative payees.	9
Sec. 103. Disqualification from service as representative payees of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.	10

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.	11
Sec. 105. Liability of representative payees for misused benefits.	11
Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.	12
Sec. 107. Survey of use of payments by representative payees. .	12
Subtitle B—Enforcement	13
Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.	13
Title II—Program Protections	13
Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.	13
Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.	14
Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.	15
Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.	16
Sec. 205. Refusal to recognize certain individuals as claimant representatives.	17
Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.	17
Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.	18
Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.	19
Sec. 209. Authority for judicial orders of restitution.	20
Sec. 210. Information for the administration of provisions related to non-covered employment.	21
Sec. 211. Authority for cross-program recovery of benefit overpayments.	22
Sec. 212. Prohibition of payment of title II benefits to persons not authorized to work in the United States.	23
Title III—Attorney Representative Fee Payment System Improvements	24
Sec. 301. Cap on attorney assessments.	24
Sec. 302. GAO study of fee payment process for claimant representatives.	25
Title IV—Miscellaneous and Technical Amendments	26
Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999	26
Sec. 401. Elimination of demonstration authority sunset date. .	26
Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.	26
Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.	27
Sec. 404. Availability of Federal and State work incentive services to additional individuals.	27
Sec. 405. Technical amendment clarifying treatment of referrals under the Ticket to Work and Self-Sufficiency Program.	28
Sec. 406. GAO study of Ticket to Work and Self-Sufficiency Program.	29
Subtitle B—Miscellaneous Amendments	30
Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.	30
Sec. 412. Nonpayment of benefits upon removal from the United States.	30
Sec. 413. Reinstatement of certain reporting requirements.	31
Sec. 414. Clarification of definitions regarding certain survivor benefits.	31

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.	32
Sec. 416. Coverage under divided retirement system for public employees.	32
Sec. 417. Compensation for the Social Security Advisory Board.	33
Sec. 418. 60-month employment requirement for government pension offset exemption.	34
Sec. 419. Post-1956 Military Wage Credits.	35
Subtitle C—Technical Amendments	35
Sec. 421. Technical correction relating to responsible agency head.	35
Sec. 422. Technical correction relating to retirement benefits of ministers.	36
Sec. 423. Technical corrections relating to domestic employment.	36
Sec. 424. Technical corrections of outdated references.	37
Sec. 425. Technical correction respecting self-employment income in community property States.	37
Sec. 426. Technical changes to the Railroad Retirement and Survivors Improvement Act of 2001.	38
Subtitle D—Amendments Related to Title XVI	39
Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.	39
Sec. 431. Uniform 9-month resource exclusion periods.	41
Sec. 432. Modification of dedicated account requirements.	41
Sec. 433. Elimination of certain restrictions on the application of the student earned income exclusion.	42
Sec. 434. Exclusion of Americorps and other volunteer benefits for purposes of determining supplemental security income eligibility and benefit amounts and social security disability insurance entitlement.	43
Sec. 435. Exception to retrospective monthly accounting for nonrecurring income.	43
Sec. 436. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.	44
Sec. 437. Treatment of education-related income and resources.	45
Sec. 438. Monthly treatment of uniformed service compensation.	45
Sec. 439. Update of resource limits.	46
Sec. 440. Review of State agency blindness and disability determinations.	47
III. Budget Effects of the Bill	47
IV. Votes of the Committee	65
A. Motion to Report the Bill	66
V. Regulatory Impact and Other Matters	66
A. Regulatory Impact	66
B. Information Relating to Unfunded Mandates	66
C. Tax Complexity Analysis	66
VI. Changes in Existing Law Made by the Bill as Reported	66
VII. Additional Views	67

I. SUMMARY, BACKGROUND, AND LEGISLATIVE HISTORY

A. SUMMARY

The “Social Security Protection Act of 2003,” H.R. 743, as amended by the Committee on Finance of the U.S. Senate, provides the Social Security Administration (SSA) with important new tools to fight waste, fraud, and abuse in the Social Security and Supplemental Security Income programs, increases the ability of disability beneficiaries to return to work, and improves the equity and efficiency of both programs.

Passage of the bill would improve the Representative Payee program operated by the Social Security Administration. Representative Payees are individuals or organizations who manage the monthly Social Security or Supplemental Security Income (SSI) payments for beneficiaries who need help managing their financial affairs. The bill would impose stricter standards on individuals and organizations that serve as representative payees for Social Security and SSI recipients. The bill would make non-governmental representative payees liable for misused funds and subject them to civil monetary penalties. The bill also contains funds for the Inspector General of the Social Security Administration to conduct a survey that would for the first time produce statistically significant measures of the degree to which benefit payments managed by representative payees are not being used for the welfare of beneficiaries.

The bill would help disability beneficiaries return to work. The bill would enhance provisions of the Ticket to Work program that would better enable SSA to test ways of helping individuals with disabilities return to employment. The bill would provide more individuals access to support and services that can help them work. The bill would also encourage more employers to hire individuals with disabilities by expanding eligibility for the Work Opportunity Tax Credit.

The bill would improve representation for claimants of disability benefits in the Social Security and SSI programs. The bill would tighten restrictions on attorneys who represent Social Security and SSI disability claimants, as well as limit the processing fee that SSA charges attorneys who elect to have their representative fee paid directly to them by SSA. The bill would also require the General Accounting Office to survey current claimant representation by attorneys and non-attorneys and assess the advantages and disadvantages of extending the current attorney fee withholding process in the Social Security program to the SSI program, and of extending fee withholding to non-attorney representatives in both programs.

The bill would expand and improve important provisions in the current SSI program that deny benefits to fugitive felons and allow SSA to cooperate with law enforcement in order to apprehend these and other felons. The bill would expand the denial of benefits payable to fugitive felons and probation and parole violators to include Social Security benefits, and would provide important technical clarifications as to how the provision would operate for both Social Security and SSI benefits.

The bill would make more equitable the Social Security benefits paid to beneficiaries who receive pensions based on work that was not covered by Social Security. The bill would close the "last day" loophole in the application of the Government Pension Offset. The bill would also require State and local pension plans to report to the Internal Revenue Service whether an individual's pension is based on employment not covered by Social Security. This information would then be shared with the Social Security Administration for the administration of provisions related to pensions based on non-covered employment.

The bill would help stop waste, fraud, and abuse within the Social Security and SSI programs and help SSA to recoup monetary

damages from waste, fraud, and abuse. The bill would create new penalties to prevent persons from misrepresenting themselves when they offer Social Security-related services, prohibit disabled individuals who fraudulently conceal work activity from being eligible for a trial work period, and allow the Federal courts to order individuals who break Social Security law to make restitution to the Social Security Trust Funds or the U.S. Treasury's general fund.

The bill would give SSA more flexibility to recover overpayments in one program from underpayments made in another program, with protections for low-income beneficiaries. The bill would also require non-citizens to have work authorization at the time of application for benefits, or to have had work authorization at some point in the past, in order to be eligible to receive Social Security benefits. The bill would also protect Social Security employees from harm while conducting their duties.

The bill would improve benefits and simplify administration of the SSI program. The bill would make the income reporting process less cumbersome, establish greater uniformity of eligibility, increase the asset limit for eligibility, and make other improvements and simplifications in the program.

Finally, passage of the bill would correct, clarify, or modify various technical aspects of current law in the Social Security, SSI, and Railroad Retirement programs.

The Congressional Budget Office estimates that H.R. 743, as reported by the Committee on Finance, would result in net 10-year savings of \$595 million.

B. BACKGROUND

The Social Security and SSI programs touch the lives of nearly every American and represented close to one-fourth of all Federal outlays in 2003. Last year, the Federal Government paid nearly \$500 billion in Social Security and SSI benefits to about 50 million retired and disabled workers and their families or survivors, and disabled, blind, and aged low-income individuals. Given the programs' size and extensive influence over the economic well-being of American workers and their families, it is important to eliminate inadequate protections for beneficiaries, to improve the ability of disabled beneficiaries to return to work, improve the equity of the application of current law, and fight activities that drain resources from Social Security and thereby undermine the financial security of beneficiaries.

Nearly 7 million Social Security and SSI beneficiaries cannot, for physical or mental reasons, manage their own financial affairs. In these cases, the SSA appoints an individual or organization, called a "representative payee," to manage these beneficiaries' benefits. While most representative payees are conscientious and honest, some violate the trust placed in them. In a report issued in June 2002, "Analysis of Information Concerning Representative Payee Misuse of Beneficiaries' Payments," the SSA Inspector General stated that SSA found that more than 2,400 individuals who served as representative payees misused \$12 million in benefits between January 1997 and December 1999. The SSA and the SSA Inspector General have recommended legislation to raise the standards for persons and organizations serving as representative payees and to

impose stricter regulation and monetary penalties on those who mismanage benefits.

In addition to protecting the financial security of vulnerable beneficiaries, this bill would also expand and improve the policy adopted in P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), denying benefit payments to fugitive felons and individuals who violate their probation or parole and allowing SSA to cooperate with law enforcement in order to apprehend such felons. The 1996 legislation applied to SSI benefits to such individuals; however, no such prohibition exists for Social Security benefits. The Congressional Budget Office estimates that Social Security will pay \$525 million in benefits over the next 10 years to Social Security beneficiaries who are fugitives or probation or parole violators. In an August 2000 report, "Old-Age, Survivors and Disability Insurance Benefits Paid to Fugitives," the SSA Inspector General estimated that about 17,000 fugitives received Social Security benefits between PRWORA's enactment and 1999, and recommended legislation similar to the SSI provisions which would prohibit payment of Social Security benefits to fugitive felons and probation or parole violators, and would allow SSA to cooperate with law enforcement in order to apprehend these individuals as well as others seeking to avoid arrest.

The bill would also incorporate recommendations by the SSA Inspector General to provide SSA with new authority to further safeguard Social Security programs, help shield SSA employees from harm while conducting their duties, subject perpetrators of fraud to new civil monetary penalties, and prevent persons from misrepresenting themselves as they provide Social Security-related services.

The bill would assist individuals who are applying for disability benefits by improving the oversight of the attorneys who represent them before the Social Security Administration. Under present law, attorneys disbarred in one jurisdiction, but licensed to practice in another jurisdiction, must be recognized as a claimant's representative. The bill would authorize the Commissioner of Social Security to refuse to recognize as a representative, or disqualify as a representative, an attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency.

Advocates for disability claimants and attorney representatives have testified that the SSA's processing fee for withholding attorney fees from past-due benefits is excessive and limits the pool of attorneys willing to help disability claimants. The advocates recommend limiting the fee in order to increase the availability of attorney representation.

Besides encouraging representation of claimants seeking benefits, advocates for individuals with disabilities have discussed the need to improve and clarify provisions of the Ticket to Work program by enhancing demonstration projects, making work incentive services available to more individuals, and expanding eligibility for the Work Opportunity Tax Credit. These recommendations are intended to encourage more disabled beneficiaries to return to work or to maintain work effort.

The bill also contains two provisions highlighted by the Social Security Advisory Board (SSAB). The first provision would allow the SSA to collect outstanding Supplemental Security Income over-

payments by offsetting the full amount owed against any lump-sum retroactive Social Security benefit to which the beneficiary may be entitled. The second provision would provide for better information sharing between governmental entities to improve the administration of the Social Security program with regard to the treatment of public employee pensions. Both of these provisions are expected to provide substantial savings to the Social Security programs.

The bill contains numerous provisions aimed at correcting inequities in the application of current law. One of these provisions, which relates to State and local workers who are not covered by Social Security, resulted from an August 2002 General Accounting Office (GAO) report, "Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered." The GAO found that teachers in Texas, and to a lesser extent in Georgia, who were not previously covered by Social Security, were using a loophole in the law to receive higher spousal or survivor benefits from Social Security. In effect, teachers contributed to Social Security for as little as one day (an average of \$3 in payroll taxes) and could qualify for over \$100,000 in spousal or survivor benefits over a lifetime, whereas similar workers who were covered by Social Security throughout their careers received little or no spousal or survivor benefits. The GAO indicated that more State and local workers were likely to use this loophole in the future. The GAO recommended amending the law to treat State and local workers the same as Federal workers in applying the exemption.

Since September 11, 2001, and with the renewed interest in the enforcement of U.S. immigration laws, Members of Congress and the Social Security Inspector General have raised concerns that individuals who were never legally permitted to work in the United States are permitted to collect Social Security (Title II) benefits on the basis of their unauthorized earnings. The 1996 welfare reform legislation limited the payment of benefits to U.S. citizens, nationals, and aliens who are lawfully present in the United States. But, this provision only affects the payment of benefits to individuals within the United States; it does not affect their eligibility (entitlement) to that benefit. Thus, a non-citizen who is not lawfully present in the United States can often receive a benefit by simply moving to another country. The bill would expand on the 1996 welfare reform provision by prohibiting the payment of Title II benefits to any person, regardless of the person's place of residence, unless he or she was legally permitted to engage in employment in the United States at any time prior to (and including) the time he or she applies for benefits. It would also prohibit the payment of benefits to the spouses, dependents, or survivors of these ineligible workers.

For many years, SSA has asked the Congress to enact several provisions to simplify the administration of the Supplemental Security Income (SSI) program. Additionally, the President's Fiscal Year 2003 and Fiscal Year 2004 budgets proposed to expand one of the quality review processes that currently apply to the Social Security disability insurance program to the SSI program. That change is expected to produce savings in the SSI program of \$1.5 billion over 10 years. In addition, many of the eligibility rules for the SSI program have not been modified since the program's inception in 1972, due to the associated costs to the Federal budget. In

order to allow SSI beneficiaries to keep more of their resources, the bill uses the savings from the proposal in the President's budget to increase the asset limit for SSI eligibility. The bill also includes many of the program simplification provisions requested by SSA for the SSI program.

C. LEGISLATIVE HISTORY

Last Congress, the House of Representatives passed H.R. 4070, "The Social Security Program Protection Act" on June 26, 2002, by a vote of 425-0. The Senate Finance Committee pre-conferenced the bill with the House Ways and Means Committee. The bill was changed to reflect the pre-conference agreement. The bill was taken up on the Senate floor and passed by unanimous consent on November 18, 2002, and a report on the bill was placed in the Congressional Record. The House of Representatives did not act on the Senate passed bill before adjourning.

The strong support for H.R. 4070 in the 107th Congress, led to the introduction of H.R. 743, the "Social Security Protection Act of 2003" in the 108th Congress. On March 5, the House of Representatives considered H.R. 743, as amended, under suspension of the rules; it failed by a vote of 249-180 (a two-thirds vote being required). On March 13, 2003, the Committee on Ways and Means ordered favorably reported H.R. 743, the "Social Security Protection Act of 2003," as amended, by a rollcall vote of 35-2. The House of Representatives passed H.R. 743 on April 2, 2003, by a vote of 396-28.

The Senate Committee on Finance marked up H.R. 743 and approved the bill, as modified, on September 17, 2003, by a voice vote with a quorum present.

II. EXPLANATION OF THE BILL

TITLE I. PROTECTION OF BENEFICIARIES

SUBTITLE A. REPRESENTATIVE PAYEES

Section 101. Authority To Reissue Benefits Misused by Organizational Representative Payees

Present Law

The Social Security Act requires the re-issuance of benefits misused by any representative payee when the Commissioner finds that the Social Security Administration (SSA) negligently failed to investigate and monitor the payee.

Explanation of Provision

The new provision eliminates the requirement that benefits be reissued only upon a finding of SSA negligence. Thus, the Commissioner would re-issue benefits under Titles II, VIII and XVI in any case in which a beneficiary's funds are misused by an organizational payee or an individual payee representing 15 or more beneficiaries.

The new provision defines misuse as any case in which a representative payee converts the benefits entrusted to his or her care for purposes other than the "use and benefit" of the beneficiary,

and authorizes the Commissioner to define "use and benefit" in regulation.

Reason for Change

There have been a number of highly publicized cases involving organizational representative payees that have misused large sums of monies paid to them on behalf of the Social Security and Supplemental Security Income (SSI) beneficiaries they represented. In most instances, these organizations operated as criminal enterprises, bent not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went undetected until large sums had been stolen. If the SSA is not shown to be negligent for failing to investigate and monitor the payee, affected beneficiaries may never be repaid or may be repaid only when the representative payee committing misuse makes restitution to the SSA. Requiring the SSA to reissue benefit payments to these victims of benefit misuse provides essential protection from financial hardship.

Effective Date

This provision applies to benefit misuse by a representative payee as determined by the Commissioner on or after January 1, 1995.

Section 102. Oversight of Representative Payees

Present Law

Present law requires community-based nonprofit organizational representative payees to be licensed or bonded. Periodic on-site reviews of representative payees by the Social Security Administration are authorized, but not required.

Explanation of Provision

The new provision requires community-based nonprofit organizational representative payees to be both licensed and bonded (provided that licensing is available in the State). In addition, such representative payees must submit yearly proof of bonding and licensing, as well as copies of any available independent audits that were performed on the payee in the past year.

The new provision also requires the Commissioner of Social Security to conduct periodic onsite reviews of: (1) a person who serves as a representative payee to 15 or more beneficiaries, (2) non-governmental fee-for-service representative payees (as defined in Titles II and XVI), and (3) any agency that serves as the representative payee to 50 or more beneficiaries. In addition, the Commissioner is required to submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the reviews conducted in the prior fiscal year.

Reason for Change

Strengthening the bonding and licensing requirements for community-based nonprofit social service agencies would add further safeguards to protect beneficiaries' funds. State licensing provides for some oversight by the State into the organization's business

practices, and bonding provides some assurances that a surety company has investigated the organization and approved it for the level of risk associated with the bond. Requiring annual certification as to the licensing and bonding of the payee, as well as submission of audits performed, should help prevent a payee from dropping their licensing or bonding subsequent to the SSA approving them as payee.

Effective Date

The bonding, licensing, and audit provisions are effective on the first day of the 13th month following enactment of the legislation. The periodic on-site review provision is effective upon enactment.

Section 103. Disqualification From Service as Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment for More Than One Year, of Persons Fleeing Prosecution, Custody or Confinement, and of Persons Violating Probation or Parole

Present Law

Individuals convicted of fraud under the Social Security Act are disqualified from being representative payees.

Explanation of Provision

The new provision expands the scope of disqualification to prohibit an individual from serving as a representative payee if he or she: (1) has been convicted of any offense resulting in imprisonment for more than 1 year; (2) is fleeing to avoid prosecution, or custody or confinement after conviction; or (3) violated a condition of probation or parole. An exception applies if the Commissioner of Social Security determines that a person who has been convicted of any offense resulting in imprisonment for more than 1 year would, notwithstanding such conviction, be an appropriate representative payee.

The new provision requires the Commissioner to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating procedures and reviews conducted for representative payees to determine whether they are sufficient to protect benefits from being misused.

Reason for Change

Prohibiting persons convicted of offenses resulting in imprisonment for more than 1 year and persons fleeing prosecution, custody or confinement for a felony from serving as representative payees decreases the likelihood of mismanagement or abuse of beneficiaries' funds. Also, allowing such persons to serve as representative payees could raise serious questions about the SSA's stewardship of taxpayer funds. The agency's report will assist Congress in its oversight of the representative payee program.

Effective Date

This provision is effective on the first day of the 13th month beginning after the date of enactment, except that the report to Congress is due no later than 270 days after the date of enactment.

Section 104. Fee Forfeiture in Case of Benefit Misuse by Representative Payees

Present Law

Certain organizational representative payees are authorized to collect a fee for their services. The fee, which is determined by a statutory formula, is deducted from the beneficiary's benefit payments.

Explanation of Provision

The new provision requires representative payees to forfeit the fee for those months during which the representative payee misused funds, as determined by the Commissioner of Social Security or a court of competent jurisdiction.

Reason for Change

Payees who misuse their clients' funds are not properly performing the service for which the fee was paid; therefore, they should forfeit such fees. Permitting the payee to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's needs.

Effective Date

This provision applies to any month involving benefit misuse by a representative payee as determined by the Commissioner or a court of competent jurisdiction after 180 days after the date of enactment.

Section 105. Liabilities of Representative Payees for Misused Benefits

Present Law

Although the SSA has been provided with expanded authority to recover overpayments (such as the use of tax refund offsets, referral to contract collection agencies, notification of credit bureaus, and administrative offsets of future Federal benefits payments), these tools cannot be used to recoup benefits misused by a representative payee.

Explanation of Provision

The new provision treats benefits misused by a non-governmental representative payee (including all individual representative payees) as an overpayment to the representative payee, rather than the beneficiary, thus subjecting the representative payee to current overpayment recovery authorities. Any recovered benefits not already reissued to the beneficiary pursuant to section 101 of this legislation would be reissued to either the beneficiary or their alternate representative payee, up to the total amount misused.

Reason for Change

Treating misused benefits as overpayments to the representative payee would provide the SSA with additional means for recovering misused payments.

Effective Date

Applies to benefit misuse by a representative payee in any case where the Commissioner of Social Security or a court of competent jurisdiction makes a determination of misuse after 180 days after the date of enactment.

Section 106. Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting

Present Law

The Social Security Act requires representative payees to submit accounting reports to the Commissioner of Social Security detailing how a beneficiary's benefit payments were used. A report is required at least annually, but may be requested by the Commissioner at any time if the Commissioner has reason to believe the representative payee is misusing benefits.

Explanation of Provision

The new provision authorizes the Commissioner of Social Security to require a representative payee to receive any benefits under Titles II, VIII, and XVI in person at a Social Security field office if the representative payee fails to provide an annual accounting of benefits report. The Commissioner would be required to provide proper notice and the opportunity for a hearing prior to redirecting benefits to the field office.

Reason for Change

Accounting reports are an important means of monitoring the activities of representative payees to prevent misuse of benefits. Redirecting benefit payments to the field office would enable the agency to promptly address the failure of the representative payee to file a report.

Effective Date

This provision is effective 180 days after the date of enactment.

Section 107. Survey of Use of Payments to Representative Payees

Present Law

The Social Security Act authorizes the appointment of representative payees to receive and manage Title II (OASDI) and Title XVI (SSI) benefits on behalf of beneficiaries who cannot manage their own finances because of mental or physical impairments. A representative payee may be an individual or an organization, including non-profits, State or local government agencies.

Explanation of Provision

This provision would authorize and appropriate \$17.8 million to the Inspector General of the Social Security Administration for Fiscal Year 2004 to conduct a statistically significant survey to determine how the payments made to each category of representative payee are being used on behalf of beneficiaries. The study is to be completed by February 1, 2005.

Reason for Change

When all of the categories of representative payees are considered, there are a total of about 5.3 million payees. In the aggregate, these payees receive and manage about \$44 billion of payments on behalf of about 6.7 million Social Security beneficiaries. The payees are supposed to use these payments to meet the needs of the beneficiaries. However, to date, there has not been a statistically significant national survey to estimate the number of payments provided to each type of payee that are not being properly used on behalf of beneficiaries. The Inspector General has proposed that such a survey be conducted in Fiscal Year 2004 at a cost of \$17.8 million. This section provides the funds for such a study.

Effective Date

Upon enactment.

SUBTITLE B: ENFORCEMENT

*Section 111. Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees**Present Law*

The Social Security Act authorizes the Commissioner to impose a civil monetary penalty (of up to \$5,000 for each violation) along with an assessment (of up to twice the amount wrongly paid) upon any person who knowingly uses false information or knowingly omits information to wrongly obtain Title II, VIII or XVI benefits.

Explanation of Provision

The new provision expands the application of civil monetary penalties to include misuse of Title II, VIII or XVI benefits by representative payees. A civil monetary penalty of up to \$5,000 may be imposed for each violation, along with an assessment of up to twice the amount of misused benefits.

Reason for Change

Providing authority for SSA to impose civil monetary penalties along with an assessment of up to twice the amount of misused benefits would provide the SSA with an additional means to address benefit misuse by representative payees.

Effective Date

This provision applies to violations occurring after the date of enactment.

TITLE II. PROGRAM PROTECTIONS

*Sec. 201. Civil Monetary Penalty Authority With Respect to Withholding Material Facts**Present Law*

The Social Security Act authorizes the Commissioner of Social Security to impose civil monetary penalties and assessments on any person who makes a statement or representation of a material fact for use in determining initial or continuing rights to Title II, VIII, or XVI benefits that the person knows or should know omits

a material fact or is false or misleading. In order for the penalty or assessment to be imposed, the law requires an affirmative act on the part of the individual of making (or causing to be made) a statement that omits a material fact or is false or misleading.

Explanation of Provision

This provision authorizes civil monetary penalties and assessments and sanctions for the failure to come forward and notify the SSA of changed circumstances that affect eligibility or benefit amount when that person knows or should know that the failure to come forward is misleading.

Reason for Change

Currently the SSA cannot impose civil monetary penalties and assessments on a person who should have come forward to notify the SSA of changed circumstances that affect eligibility or benefit amount, but did not. This amendment is intended to close this loophole in the current law, but is not intended to expand Section 1129 and 1129A to include those individuals whose failure to come forward to notify the SSA was not done for the purpose of improperly obtaining or continuing to receive benefits. For instance, it is not intended that the expanded authority be used against individuals who do not have the capacity to understand that their failure to come forward is misleading.

Examples of the types of individuals intended to be covered under this amendment to Section 1129 and 1129A include (but are not limited to): (1) an individual who has a joint bank account with a beneficiary in which the SSA direct deposited the beneficiary's Social Security checks; upon the death of the beneficiary, this individual fails to advise the SSA of the beneficiary's death, instead spending the proceeds from the deceased beneficiary's Social Security checks; and (2) an individual who is receiving benefits under one SSN while working under another SSN.

Effective Date

Applies to violations committed after the date on which the Commissioner implements the centralized computer file described in Section 202.

Section 202. Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status

Present Law

Changes in employment or earnings can affect an individual's continued entitlement to disability benefits under Title II or Title XVI. Beneficiaries are required to report such changes, but the SSA has not implemented a system to acknowledge that beneficiaries have properly fulfilled their obligation.

Explanation of Provision

The new provision requires the Commissioner to issue a receipt to a disabled beneficiary (or representative of a beneficiary) who reports a change in his or her work or earnings status. The Commissioner is required to continue issuing such receipts until the Com-

missioner has implemented a centralized computer file that would record the date on which the disabled beneficiary (or representative) reported the change in work or earnings status.

Reason for Change

SSA does not currently have an effective system in place for processing and recording Title II and Title XVI disability beneficiaries' reports of changes in work and earnings status. Issuing receipts to disabled beneficiaries who make such reports would provide them with proof that they had properly fulfilled their obligation to report these changes.

Effective Date

This provision requires the Commissioner to begin issuing receipts as soon as possible, but no later than 1 year after the date of enactment.

Section 203. Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

Present Law

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) included provisions making persons ineligible to receive Social Security benefits under Title XVI (SSI) during any month in which they are fleeing to avoid prosecution for a felony, or to avoid custody or confinement after conviction for a felony, or are in violation of a condition of probation or parole. However, the same prohibition does not apply to Social Security benefits under Title II (OASDI).

Explanation of Provision

This provision makes persons ineligible to receive Social Security benefits under Title II for months in which they are fleeing to avoid prosecution for a felony, or to avoid custody or confinement after conviction for a felony, or are in violation of a condition of probation or parole. The provision gives the Commissioner of Social Security the authority to pay Title II or Title XVI benefits, if there is "good cause." The provision also requires the Commissioner, upon written request by law enforcement officials, to assist such officials in apprehending fugitives by providing them with an address, Social Security number, and if available, a photograph.

The provision clarifies that in order for an individual to be considered "fleeing," law enforcement must be pursuing the individual. Thus, the provision provides that benefits under Title II or Title XVI will be withheld or suspended only in those cases in which the relevant law enforcement agency notifies SSA that it intends to pursue the individual by seeking arrest, extradition, prosecution, or the revocation of probation or parole.

Reason for Change

Although the fugitive felon provision applies to Title XVI (SSI), it does not apply to Title II (OASDI). This section of the bill would extend this provision to Title II.

The fugitive felon provision was intended to deny benefits to those seeking to avoid arrest or prosecution, not to deny benefits to those no longer sought by law enforcement. The Committee has been made aware of numerous cases in which law enforcement agencies have chosen not to pursue individuals identified through the current Title XVI fugitive felon program. Such cases often involve minor offenses that may be decades old and will never be prosecuted. As a result, the only effect of the individual's illegal actions is the denial of SSI benefits. The Committee does not believe the Social Security Administration should become the law enforcement agency of last resort. Therefore, this section of the bill provides that benefits under Title II or Title XVI will be withheld or suspended only in those cases in which the relevant law enforcement agency notifies SSA that it intends to pursue the individual by seeking arrest, extradition, prosecution, or the revocation of probation or parole. Moreover, the good cause exception will provide the SSA with the ability to pay benefits under circumstances in which the Commissioner deems withholding of benefits to be inappropriate—for example, but not limited to, situations where beneficiaries are found to be victims of identity theft.

Effective Date

This provision is effective on the first day of the first month that begins on or after the date that is 9 months after the date of enactment.

Section 204. Requirements Relating to Offers to Provide for a Fee a Product or Service Available Without Charge From the Social Security Administration

Present Law

The Social Security Act prohibits or restricts various activities involving the use of Social Security and Medicare symbols, emblems, or references which give a false impression that an item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services. It also provides for the imposition of civil monetary penalties with respect to violations of the section.

Explanation of Provision

The new provision requires persons or companies charging a fee for services available for free from SSA to include in their solicitations a statement that the services they provide for a fee are available directly from SSA free of charge. The statements would be required to comply with standards promulgated through regulation by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility.

Reason for Change

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. For example, the SSA's Inspector General has encountered business entities that have offered assistance to individuals in changing their names (upon marriage) or in obtaining a Social Security number (upon the birth of a child) for a fee,

even though these services are directly available from the SSA for free. The offer from the business entities either did not state at all, or did not clearly state, that these services were available from the SSA for free. These practices can mislead and deceive senior citizens, newlyweds, new parents, and other individuals seeking services or products, who may not be aware that the SSA provides these services for free.

Effective Date

Applies to offers of assistance made after the sixth month following the issuance of these standards. Requires the Commissioner to promulgate regulations within 1 year after the date of enactment.

Section 205. Refusal to Recognize Certain Individuals as Claimant Representatives

Present Law

An attorney in good standing is entitled to represent claimants before the Commissioner of Social Security. The Commissioner may prescribe rules and regulations governing the recognition of persons other than attorneys representing claimants before the Commissioner. Under present law, attorneys disbarred in one jurisdiction, but licensed to practice in another jurisdiction, must be recognized as a claimant's representative.

Explanation of Provision

The new provision authorizes the Commissioner to refuse to recognize as a representative, or disqualify as a representative, an attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency. Due process (i.e., notice and an opportunity for a hearing) would be required before taking such action. Also, if a representative has been disqualified or suspended as a result of collecting an unauthorized fee, full restitution is required before reinstatement can be considered.

Reason for Change

This provision could potentially provide additional protections for beneficiaries who may rely on representatives during all phases of their benefit application process. However, the Committee remains concerned that the SSA does not yet have any system in place to verify whether or not a person seeking appointment as a claimant representative is in fact an attorney. Moreover, SSA has no system to determine whether or not an attorney who seeks appointment has been disbarred.

Effective Date

Upon enactment.

Section 206. Penalty for Corrupt or Forcible Interference with Administration of the Social Security Act

Present Law

No provision.

Explanation of Provision

The new provision imposes a fine of not more than \$5,000, and imprisonment of not more than 3 years, or both, for attempting to intimidate or impede—corruptly or by using force or threats of force—any Social Security Administration officer, employee or contractor (including State employees of disability determination services and any individuals designated by the Commissioner) while they are acting in their official capacities under the Social Security Act. If the offense is committed only by threats of force, however, the offender is subject to a fine of not more than \$3,000 and/or no more than 1 year in prison.

Reason for Change

This provision extends to SSA employees the same protections provided to employees of the Internal Revenue Service under the Internal Revenue Code of 1954. These protections will allow SSA employees to perform their work with more confidence that they will be safe from harm.

The Committee expects that judgment will be used in enforcing this section. Social Security and SSI disability claimants and beneficiaries are frequently subject to multiple, severe life stressors, which may include severe physical, psychological, or financial difficulties. In addition, disability claimants or beneficiaries who encounter delays in approval of initial benefit applications or in post-entitlement actions may incur additional stress, particularly if they have no other source of income. Under such circumstances, claimants or beneficiaries may at times express frustration in an angry manner, without truly intending to threaten or intimidate SSA employees. In addition, approximately 25 percent of Social Security disability beneficiaries and 35 percent of disabled SSI recipients have mental impairments, and such individuals may be less able to control emotional outbursts. These factors should be taken into account in enforcing this provision.

Effective Date

Upon enactment.

*Section 207. Use of Symbols, Emblems or Names in Reference to Social Security or Medicare**Present Law*

The Social Security Act prohibits (subject to civil penalties) the use of Social Security or Medicare symbols, emblems and references on any item in a manner that conveys the false impression that such item is approved, endorsed or authorized by the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services.

Explanation of Provision

The new provision expands the prohibition in present law to several other references to Social Security and Medicare, including the Centers for Medicare and Medicaid Services.

Reason for Change

The SSA Inspector General has found these phrases appearing in mailings, solicitations, or flyers, which, when used with the SSA's words, symbols, emblems, and references may be particularly misleading and more likely to convey the false impression that such item is approved, endorsed, or authorized by the SSA, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. Expansion of this list helps to ensure that individuals receiving any type of mail, solicitations or flyers bearing symbols, emblems or names in reference to Social Security or Medicare are not misled into believing that these agencies approved or endorsed the services or products depicted.

Effective Date

Applies to items sent after 180 days after the date of enactment.

Section 208. Disqualification From Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

Present Law

An individual entitled to disability benefits under Title II (OASDI) is entitled to a "trial work period" to test his or her ability to work. The trial work period allows beneficiaries to work with earnings above the substantial gainful activity level for up to 9 months (which need not be consecutive), within any 60-month period, without any loss of benefits. A month counts as a trial work period month if the individual earns above a level established by regulation (this amount is \$570 a month in 2003).

SSA's Inspector General has pursued criminal prosecution of Title II disability beneficiaries who fraudulently conceal work activity. As benefits received during the trial work period are not included in the dollar-loss totals, the dollar loss to the government may fall below the thresholds set by the U.S. Attorneys in determining which fraud cases to prosecute.

Explanation of Provision

Under the new provision, an individual who is convicted of fraudulently concealing work activity during the trial work period would not be entitled to receive a disability benefit for trial work period months that occur prior to the conviction but within the same period of disability. If the individual had already been paid benefits for these months, he or she would be liable for repayment of these benefits, in addition to any restitution, penalties, fines, or assessments that were otherwise due.

In order to be considered to be fraudulently concealing work activity under this provision, the individual must have: (1) provided false information to SSA about his or her earnings during that period; (2) worked under another identity, including under the Social Security number of another person or a false Social Security number; or (3) taken other actions to conceal work activity with the intent to fraudulently receive benefits that he or she was not entitled to.

Reason for Change

Under current law, if an individual is convicted of fraudulently concealing work activity, the dollar loss to the government is calculated based on the benefits that the individual would have received had he or she not concealed the work activity. During the trial work period, disability beneficiaries continue to receive their monthly benefit amount regardless of their work activity. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government, even if the individual fraudulently concealed work activity during that period. As a result, the dollars lost to the government may fall below the thresholds set by the U.S. Attorneys in cases involving fraudulent concealment of work by Title II disability beneficiaries. In such situations, the case would not be prosecuted, even if the evidence of fraud was very clear.

This provision rectifies the situation by establishing that individuals convicted of fraudulently concealing work activity during the trial work period are not entitled to receive any disability benefits for trial work period months prior to the conviction (but within the same period of disability).

Effective Date

Effective with respect to work activity performed after the date of enactment.

*Sec. 209. Authority for Judicial Orders of Restitution**Present Law*

A court may order restitution when sentencing a defendant convicted of various offenses. However, violations of the Social Security Act are not included among those for which the court may order restitution.

Explanation of Provision

This provision amends the Social Security Act to allow a Federal court to order restitution to the Social Security Administration for violations of the Social Security Act. Restitution in connection with benefit misuse by a representative payee would be credited to the Social Security Trust Funds for cases involving OASDI recipients and to the general fund for cases involving Supplemental Security Income and Special Veterans benefits. Other restitution funds, credited to a special fund established in the Treasury, would be available to defray expenses incurred in implementing Title II, Title VIII, and Title XVI. If the court does not order restitution, or only orders partial restitution, the court must state the reason on the record.

Reason for Change

This provision would enhance a judge's ability to compensate the programs and punish persons convicted of violations including, but not limited to, improper receipt of Social Security payments and misuse of Social Security numbers.

Effective Date

Effective with respect to violations occurring on or after the date of enactment.

*Sec. 210. Information for the Administration of Provisions Related to Non-covered Employment**Present Law*

There are approximately 6.6 million workers who do not pay taxes into the Social Security system. The majority of these workers are State and local government employees. Many of these government workers may eventually qualify for Social Security as the result of other employment, or as the spouse or survivor of a worker covered by Social Security. The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) were enacted—in 1977 and 1983, respectively—to reduce the advantage these government workers may have when they apply for Social Security benefits.

However, the Social Security Administration (SSA) has had difficulty implementing these provisions due to the lack of data. State and local governments provide annual reports of pension benefits to the IRS on Form 1099R, but the current form does not indicate whether the pension was based on employment covered by Social Security. Moreover, the SSA does not have access to this IRS data.

Explanation of Provision

This provision would require State and local government pension paying entities to indicate on their Form 1099R report whether the pension is based in whole or in part on earnings not covered by Social Security. This proposal would also allow the IRS to share these reports with SSA for the purpose of equitably administering the GPO and WEP.

Reason for Change

This change would make the application of these provisions more equitable because it would improve SSA's ability to identify persons receiving State and local government pensions based on non-covered work in a manner comparable to SSA's present ability to identify persons receiving Federal pensions based on non-covered work.

SSA has an ongoing computer-matching program with the Federal Office of Personnel Management (OPM) that matches persons receiving Social Security benefits with persons receiving a pension from the Federal government based on non-covered employment. However, SSA does not have any similar program to identify Social Security beneficiaries who are receiving pensions based on non-covered work for a State or local government.

A previous study by the General Accounting Office (GAO) found that there are many beneficiaries who are not subjected to the GPO or WEP because the SSA does not know they are receiving pensions based on non-covered employment.

This provision would allow the SSA to obtain data on pensions based on non-covered work in a more timely and consistent manner, reducing incorrect Social Security benefit payments. In cases where the person begins to receive the pension before filing for Social Security benefits, SSA could annotate the person's record so

that this information would be available at the time the person applies for Social Security benefits. The proposal would thereby improve SSA's stewardship over the Social Security program and its trust funds.

Organizations representing State and local employees report their members are often unaware of these provisions until they apply for retirement benefits. The Committee believes the Social Security Administration should utilize the annual earnings statement mailed to every employee over the age of 25 to more explicitly inform State and local employees about the GPO and WEP. These employees should also be informed about their options to avoid these provisions by electing coverage under the Social Security program.

Effective Date

Taxable years beginning after December 31, 2003.

Sec. 211. Authorize Cross-Program Recovery for Benefit Overpayments

Present Law

The Social Security Administration has the authority to recover SSI overpayments from subsequent SSI monthly benefits and OASDI overpayments from subsequent OASDI monthly benefits. But, recovery efforts may be blocked when the beneficiary's eligibility changes from one program to another. The SSA has authority to collect prior SSI overpayments from Title II or Title VIII, but this authority is limited to 10% of the benefits paid.

Explanation of Provision

This provision would allow the Social Security Administration to more fully recover overpayments paid under Title II, Title VIII, or Title XVI from the benefits paid under any of these programs. It would provide for withholding up to 100 percent of any lump-sum underpayment. Any recovery from any continuing monthly benefit under Title II or Title VII would be limited to 10 percent. Recovery under Title XVI would be limited to the lesser of 100 percent of the monthly benefit or 10 percent of individual's total monthly income.

Reason for Change

The amount of outstanding, uncollected overpayments is large and continues to grow. Allowing the withholding of underpayments and monthly benefits between programs will greatly enhance the SSA's ability to recover overpayments. Without these changes, it would be difficult or impossible to recover overpayments, particularly when individuals are no longer eligible for ongoing monthly benefits.

Effective Date

Upon enactment.

Sec. 212. Prohibit Benefits to Persons Not Authorized to Work in the United States

Present Law

Under current law, non-citizens who work illegally in the United States can receive Title II benefits based on the earnings from their illegal work. In addition, although current law prohibits the payment of benefits to persons who are not lawfully present in the United States, such persons can generally receive their benefits outside the United States—with the exception of certain countries, such as Cuba and North Korea. Benefit payments may, in some but not all cases, be limited to a period of 6 months for persons living in other countries. In addition, benefits for dependents or survivors may be limited to 6 months unless they lived in the United States for at least 5 years in the family relationship on which the benefits are based.

Explanation of Provision

This provision would prohibit the payment of Title II benefits to any person who was not legally permitted to engage in employment in the United States prior to (or including) the time he or she applies for Title II benefits. It would also prohibit the payment of benefits to the spouses, survivors, or dependents of illegal workers.

Prior to the enactment of P.L. 92-603 on October 30, 1972, SSA records did not reflect whether an individual was authorized to work when his or her Social Security account number (SSN) was issued. Thus, the Committee expects that all SSNs issued prior to July 1974—when the 1972 provision was first implemented by SSA—shall be deemed to comply with the new requirement, unless the SSA has evidence to the contrary.

The Committee also recognizes that some individuals who are issued a non-work SSN may later become a U.S. citizen or receive authorization to work. Although such individuals are supposed to report these changes to SSA, not all do. In such cases, SSA would not be aware of the change, and would deny benefits, unless the individual maintained records to document the change. To reduce the number of potential denials and the need to rely on documents maintained by the individual, SSA should take two steps. First, SSA should utilize the annual notices it sends to all employees for whom there is a discrepancy between the name and SSN submitted by their employer and the data in SSA's records. SSA should use these mailings to notify employees that their wages are being reported on a non-work SSN, and recommend that these workers report any change in their work status to SSA. Second, SSA should use the annual earnings and benefit statements it sends to all workers over age 25 to notify these workers that their wages are being reported on a non-work SSN. Again, SSA should recommend that these workers report any change in their work status to SSA.

Reason for Change

Individuals who were never legally permitted to work in the United States should not be able to collect Social Security benefits on the basis of their illegal earnings. The Social Security program should not reward those who violate our immigration laws. This provision would begin to address this issue by limiting benefits to

those who were authorized to work in the United States at some point in time.

This provision does not fully address this issue as individuals who begin working illegally and later obtain legal status could still use their illegal earnings to qualify for Social Security benefits. However, the Commissioner of Social Security has raised concerns about SSA's ability to administer a more comprehensive approach. The Committee believes the proposal in the bill is the best approach to this issue at this time, but the Committee will continue to consider ways to more fully address this issue in the future.

Effective Date

Benefit applications filed on or after January 1, 2004.

**TITLE III.—ATTORNEY REPRESENTATIVE FEE PAYMENT
SYSTEM IMPROVEMENTS**

Section 301. Cap on Attorney Representative Assessments

Present Law

The Social Security Act allows the fees of claimant representatives who are attorneys to be paid by the SSA directly to the attorney out of the claimant's past-due benefits for Title II claims. The SSA is authorized to charge an assessment at a rate not to exceed 6.3 percent of approved attorney fees for the costs of determining, processing, withholding and distributing attorney representative fees for Title II claims.

Explanation of Provision

The new provision imposes a cap of \$75 on the 6.3 percent assessment on approved attorney representative fees for Title II claims, and this cap is indexed for inflation.

Reason for Change

The Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) which created the 6.3 percent assessment also required the General Accounting Office (GAO) to examine the costs incurred by the SSA in administering attorney fees; identify efficiencies that the SSA could implement to reduce such costs; and determine whether the assessment impairs access to legal representation for claimants.

The GAO concluded that inadequate data made a precise estimate of the administrative cost of attorney fees impossible to calculate. It further concluded that the SSA could take additional steps to automate the attorney fee process and thereby achieve significant administrative savings. Finally, GAO concluded that access to legal representation had been largely unaffected by the fee assessment.

Given the uncertainty regarding the true cost of the administering the attorney fee process, dissatisfaction with continued delays in processing attorney fees, and lack of progress in further automating the fee process, the Committee decided to cap the fee. This fee cap attempts to balance the competing goals of having attorneys pay the legitimate costs of fee withholding while at the same time encouraging the SSA to reduce these costs to the greatest extent possible.

Effective Date

After 180 days after the date of enactment.

*Sec. 302. GAO Study of Fee Payment Process for Claimant Representatives**Present Law*

An individual applying for Title II or Title XVI disability benefits may seek the assistance of another person. The person assisting the applicant may not charge or receive a fee unless it is first approved by the Social Security Administration (SSA). If the person assisting the individual is an attorney and the individual is awarded past-due benefits under Title II, the SSA will deduct the attorney's fee from the individual's benefits and pay the attorney directly—minus a fee to cover the SSA's administrative costs.

Explanation of Provision

This provision would require the General Accounting Office to conduct a study of the fee-withholding payment process for claimant representatives. The study would include a statistically significant survey of the characteristics of the current fee withholding system. The report would also include an analysis of the costs and benefits of the current system. In addition, the study would also assess the advantages and disadvantages of extending the current fee withholding system for attorneys to SSI cases. Finally, the report would assess the advantages and disadvantages of extending the fee withholding system to non-attorney representatives of both Social Security and SSI claimants.

Reason for Change

The Senate Finance Committee has received letters, testimony, and communications about the effects of the current fee-withholding process on claimants from disability advocates, the Social Security Administration, the Social Security Advisory Board, and attorney and non-attorney representatives of claimants. Among these materials, there is a difference of opinion about whether the current system is helpful or harmful to the claimants. Moreover, in these materials, some people believe that the current fee-withholding system should be extended to attorneys representing SSI disability claimants, while other people believe that the current fee-withholding system should not be extended to SSI claimants or should be eliminated. Furthermore, in the materials, some people believe that the current fee-withholding system should be extended to non-attorney representatives of both Social Security and SSI disability claimants, while others argue against such an extension. Based on these conflicting views and disagreements, the Committee decided that the best way to proceed at this time is to obtain a detailed report on these issues from the General Accounting Office.

Effective Date

The report would be due 24 months after the date of enactment.

TITLE IV.—MISCELLANEOUS AND TECHNICAL
AMENDMENTS

SUBTITLE A: AMENDMENTS RELATING TO THE TICKET TO WORK AND
WORK INCENTIVES IMPROVEMENT ACT OF 1999

Section 401. Eliminate Demonstration Authority Sunset Date

Present Law

The Commissioner of Social Security may waive compliance with the benefit requirements of Title II as necessary for a thorough evaluation of experiments and demonstration projects designed to encourage the disabled to return to work. This authority expires on December 17, 2004.

Explanation of Provision

This provision would eliminate the expiration date, thus providing permanent authority for the Commissioner to waive compliance with the benefit requirements under Title II.

Reason for Change

This change would conform the Social Security demonstration project authority with the SSI demonstration authority. The removal of the limitation on authority is warranted because demonstration projects are structured to protect beneficiaries, usually have very minimal costs, and often help to improve the program for both beneficiaries and administrators.

Effective Date

Upon enactment.

Section 402. Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

Present Law

The Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) directs the Commissioner to conduct demonstration projects for the purpose of evaluating a program for Title II disability beneficiaries under which benefits are reduced by \$1 for each \$2 of the beneficiary's earnings above a level determined by the Commissioner. To permit a thorough evaluation of alternative methods, the Ticket to Work Act allows the Commissioner to waive compliance with the benefit provisions of Title II and allows the Secretary of Health and Human Services to waive compliance with the benefit requirements of Title XVIII.

Explanation of Provision

This provision allows the Commissioner to also waive requirements in Section 1148 of the Social Security Act, related to outcome payments provided to employment networks participating in the Ticket to Work Program.

Reason for Change

Under the \$1-for-\$2 benefit offset demonstration project, earnings of many beneficiaries may not be sufficient to completely

eliminate their benefits. However, benefits must be completely eliminated before employment networks participating in the Ticket to Work program are eligible to receive outcome payments. Therefore, employment networks may be reluctant to accept tickets from beneficiaries participating in the \$1-for-\$2 benefit offset demonstration, making it impossible for the SSA to effectively test this mandated project.

Effective Date

Upon enactment.

Section 403. Funding of Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

Present Law

The Ticket to Work Act provides that the benefits and administrative expenses of conducting the \$1-for-\$2 demonstration projects will be paid out of the Old-Age, Survivors, and Disability Insurance (OASDI) and Federal Hospital Insurance and Federal Supplementary Medical Insurance (HI/SMI) trust funds, to the extent provided in advance in appropriations acts.

Explanation of Provision

The new provision establishes that administrative expenses for the \$1-for-\$2 demonstration project will be paid out of otherwise available annually-appropriated funds, and that benefits associated with the demonstration project will be paid from the OASDI or HI/SMI trust funds.

Reason for Change

Administrative costs for demonstration projects conducted under the broader Title II demonstration project authority are paid out of otherwise available annually appropriated funds, and benefits associated with the demonstration projects are paid from the OASDI or HI/SMI Trust Funds. This provision would make funding sources for the \$1-for-\$2 demonstration project under the Ticket to Work Act consistent with funding sources for other Title II demonstration projects.

Effective Date

Upon enactment.

Section 404. Availability of Federal and State Work Incentive Services to Additional Individuals

Present Law

The Ticket to Work Act directs SSA to establish a community-based program to provide benefit planning and assistance to disabled beneficiaries. To establish this program, SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. In fulfillment of this requirement, SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) program. The Act also authorizes SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. SSA has

established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

To be eligible for services under either the BPAO or PABSS programs, an individual must be entitled to Title II (OASDI) or Title XVI (SSI) benefits based on disability or blindness.

Explanation of Provision

The new provision expands eligibility for the BPAO and PABSS programs to include individuals who (1) are no longer eligible for SSI benefits because of an increase in earnings, but remain eligible for Medicaid; (2) receive only a State Supplementary payment (a payment that some States provide as a supplement to the Federal SSI benefit); or (3) are in an extended period of Medicare eligibility under Title XVIII after a period of Title II disability has ended.

This provision also expands the current PABSS assistance (which is available for securing and regaining employment) to include maintaining employment.

Reason for Change

Although disabled beneficiaries may have progressed beyond eligibility for Federal cash benefits, but may still need information about the effects of work on their medical or State benefits, or they may need advocacy or other services to help them maintain or regain employment. Extending eligibility for the BPAO and PABSS programs to beneficiaries who are no longer eligible for Federal cash benefits will help to prevent these beneficiaries from returning to the Federal cash benefit rolls and help them to reach their optimum level of employment.

By extending the current PABSS assistance to maintaining employment, this provision would ensure that disabled individuals would not face a situation in which they would have to wait until they lost their employment in order to once again be eligible to receive PABSS services.

The Committee intends this provision to provide a continuity of services for disabled individuals throughout the process of initially securing employment, the course of their employment and, if needed, their efforts to regain employment.

Effective Date

The amendment to the BPAO program is effective with respect to grants, cooperative agreements or contracts entered into on or after the date of enactment. The amendment to the PABSS program is effective for payments provided after the date of enactment.

Sec. 405. Technical Amendment Clarifying Treatment of Referrals Under the Ticket to Work and Self-Sufficiency Program

Present Law

Employers may claim a Work Opportunity Tax Credit (WOTC) for newly hired employees with disabilities who have been referred by a State vocational rehabilitation (VR) agency. The WOTC is equal to 40 percent of the first \$6,000 of wages paid to newly hired employees during their first year of employment when the employee is retained for at least 400 work hours. A lesser credit rate

of 25 percent is provided to employers when the employee remains on the job for 120–399 hours.

The Ticket to Work Act provides a “ticket” to eligible Title II (OASDI) and Title XVI (SSI) beneficiaries that allows them to obtain employment and other support services from an approved “employment network” of their choice. Employment networks may include State, local, or private entities that can provide directly, or arrange for other organizations or entities to provide, employment services, VR services, or other support services.

Under current law, an employer hiring a disabled individual referred by an employment network does not qualify for the WOTC unless the employment network is a State VR agency.

Explanation of Provision

The new provision allows employers who hire disabled workers through referrals by any employment network approved under the Ticket to Work Act to qualify for the WOTC.

Reason for Change

The Ticket to Work program was designed to increase choice available to beneficiaries when they select providers of employment services. Employers hiring individuals with disabilities should be able to qualify for the WOTC regardless of whether the employment referral is made by a public or private service provider. This amendment updates eligibility criteria for the WOTC to conform to the expansion of employment services and the increase in number and range of VR providers as a result of the enactment of the Ticket to Work Act.

Effective Date

This provision is effective as if it were included in section 505 of the Ticket to Work Act.

Sec. 406. GAO Study of Ticket to Work and Self-Sufficiency Program

Present Law

The Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106–170) was designed to help disabled beneficiaries who are seeking employment services, vocational rehabilitation services, and other support services to assist them in obtaining, regaining, and maintaining self-supporting employment.

The Ticket to Work Program is being phased in over a 3-year period. During the first phase which began in February 2002, the program was available in 13 States. In the second phase which began in November 2002, it was expanded to 20 additional States, as well as to the District of Columbia. In the third and final phase beginning in November 2003, SSA will expand the program to the remaining 17 States, as well as to American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

By implementing the Ticket to Work program in phases, the SSA will have the opportunity to evaluate the program and make any necessary improvements before the program is fully implemented nationwide.

Explanation of Provision

This provision would require the General Accounting Office to provide an interim assessment of the Ticket to Work program.

Reason for Change

Current law requires numerous annual and interim reports analyzing various aspects of the Ticket to Work program, as well as a final report by the Advisory Panel 8 years after the date of enactment. However, no one has compiled all of the information available so far in order to assess how well the Ticket to Work program is working and whether any additional legislative or administrative changes are needed.

Effective Date

The report would be due 12 months after the date of enactment.

SUBTITLE B. MISCELLANEOUS AMENDMENTS

*Section 411. Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant**Present Law*

The Social Security Act requires SSA to file a hearing transcript with the District Court for any SSA hearing that follows a court remand of an SSA decision.

Explanation of Provision

The new provision clarifies that SSA is not required to file a transcript with the court when SSA, on remand, issues a decision fully favorable to the claimant.

Reason for Change

A claimant whose benefits have been denied is provided a transcript of a hearing to be used when the claimant appeals his case in Federal District court. If the Administrative Law Judge issues a fully favorable decision, then transcribing the hearing is unnecessary since the claimant would not appeal this decision.

Effective Date

Upon enactment.

*Section 412. Nonpayment of Benefits Upon Removal From the United States**Present Law*

In most cases, the Social Security Act prohibits the payment of Social Security benefits to non-citizens who are deported from the United States. However, the Act does not prohibit the payment of Social Security benefits to non-citizens who are deported for smuggling other non-citizens into the United States.

Explanation of Provision

The new provision requires SSA to suspend benefits of beneficiaries who are removed from the United States, pursuant to a removal notice from the Attorney General or the Secretary of Homeland Security, for smuggling aliens.

Reason for Change

Individuals who are removed from the United States for smuggling aliens have committed an act that should prohibit them from receiving Social Security benefits.

Effective Date

Upon enactment.

*Section 413. Reinstatement of Certain Reporting Requirements**Present Law*

The Federal Reports Elimination and Sunset Act of 1995 "sunsetting" most annual or periodic reports from agencies to Congress that were listed in a 1993 House inventory of congressional reports.

Explanation of Provision

The new provision reinstates the requirements for several periodic reports to Congress that were subject to the 1995 "sunset" Act, including annual reports on the financial solvency of the Social Security and Medicare programs (the Board of Trustees' reports on the OASDI, HI, and SMI trust funds) and annual reports on certain aspects of the administration of the Title II disability program (the SSA Commissioner's reports on pre-effectuation reviews of disability determinations and continuing disability reviews).

Reason for Change

The reports to be reinstated provide Congress with important information needed to evaluate and oversee the Social Security and Medicare programs.

Effective Date

Upon enactment.

*Section 414. Clarification of Definitions Regarding Certain Survivor Benefits**Present Law*

Under the definitions of "widow" and "widower" in Section 216 of the Social Security Act, a widow or widower must have been married to the deceased spouse for at least 9 months before his or her death in order to be eligible for survivor benefits.

Explanation of Provision

The new provision creates an exception to the 9-month requirement for cases in which the Commissioner finds that the claimant and the deceased spouse would have been married for longer than 9 months but for the fact that the deceased spouse was legally prohibited from divorcing a prior spouse who was in a mental institution.

Reason for Change

This provision allows the Commissioner to issue benefits in certain unusual cases in which the duration of marriage requirement could not be met due to a legal impediment over which the indi-

vidual had no control and the individual would have met the legal requirements were it not for the legal impediment.

Effective Date

Effective for benefit applications filed after the date of enactment.

Section 415. Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings are Subject to the Laws of a Totalization Agreement Partner

Present Law

In cases where there is a totalization agreement with a foreign country, a worker's earnings are exempt from U.S. Social Security payroll taxes when those earnings are subject to the foreign country's retirement system.

Explanation of Provision

The new provision clarifies the legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where the earnings were subject to a foreign country's retirement system in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions on those earnings. The provision establishes that such earnings are exempt from U.S. Social Security tax whether or not the worker elected to make contributions to the foreign country's retirement system.

Reason for Change

In U.S. totalization agreements, a person's work is generally subject to the Social Security laws of the country in which the work is performed. In most cases, the worker (whether subject to the laws of the United States or the other country) is compulsorily covered and required to pay contributions in accordance with the laws of that country. In some instances, however, work that would be compulsorily covered in the United States is excluded from compulsory coverage in the other country (such as Germany). In such cases, the IRS has questioned the exemption from U.S. Social Security tax for workers who elect not to make contributions to the foreign country's retirement system. This provision would remove any question regarding the exemption and would be consistent with the general philosophy behind the coverage rules of totalization agreements.

Effective Date

Upon enactment.

Section 416. Coverage Under Divided Retirement System for Public Employees

Present Law

Social Security coverage for State and local employees covered under a public pension plan is established through an agreement between the States and the Federal government. Every State and local government has the option of electing Social Security coverage for its employees by a majority vote in a referendum. In certain States, however, there is an alternative method known as a divided

retirement system. Under this system, employees voting in the referendum may individually choose whether they want Social Security coverage, provided that all newly hired employees are required to participate in Social Security.

Explanation of Provision

This provision would extend the authority to operate a divided retirement system to all States.

Reason for Change

In the past, Congress has provided 21 States with the authority to operate divided retirement systems. This authority has generally been granted as a result of a merger between two political subdivisions. Without this authority, a majority vote would determine whether or not every employee would participate in Social Security. As the number of non-covered employees often exceeds the number of Social Security-covered employees in the new merged political subdivision, those employees currently covered by Social Security could lose that coverage. This provision was originally proposed in February 2002 to address the proposed merger between the governments of the city of Louisville and Jefferson County, in the State of Kentucky. Enactment of this provision would allow other States to operate a divided system in the future as the need arises.

Effective Date

Upon enactment.

Section 417. Compensation for the Social Security Advisory Board

Present Law

The Social Security Advisory Board is an independent, bipartisan Board established by the Congress under the Social Security Act. The seven-member Board is appointed by the President and the Congress to advise the President, the Congress and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs. Members of the Board serve without compensation, except that while engaged in Board business away from their homes or regular places of business members may be allowed reimbursement for travel expenses, including per diem in lieu of subsistence.

Explanation of Provision

The new provision establishes that compensation for Social Security Advisory Board members will be provided, at the daily rate of basic pay for level IV of the Executive Schedule, for each day (including travel time) during which the member is engaging in the business of the Board.

Reason for Change

Other government advisory boards—such as the Employee Retirement Income Security Act Advisory Council, the Pension Benefit Guaranty Corporation Advisory Committee and the Thrift Savings Plan Board—provide compensation for their members. This provision allows for similar treatment of Social Security Advisory Board members with respect to compensation.

Effective Date

January 1, 2003.

*Section 418. 60-Month Period of Employment Requirement for Government Pension Offset Exemption**Present Law*

The "dual entitlement" rule reduces a spouse's or survivor's Social Security benefit \$1-for-\$1 by his or her own Social Security retirement or disability benefit. For government workers who are not covered by Social Security, the Government Pension Offset (GPO) reduces their Social Security spouse's or survivor's benefit by an amount equal to two-thirds of their public pension. However, under the "last day rule," State and local government workers are exempt from the GPO if they are covered by both a government pension and Social Security on their last day of government employment.

Explanation of Provision

This provision requires that State and local government workers covered by a public pension who subsequently elect coverage under Social Security (pursuant to a referendum approved under Section 218 of the Social Security Act) must be covered by Social Security for at least the last 5 years of their government employment in order to be exempt from the GPO.

Reason for Change

The GPO was enacted in 1977 to equalize the treatment of workers covered by Social Security and those with government pensions not covered by Social Security. However, current law effectively provides an unintended exemption when State or local government workers are covered by both Social Security and their government pension on their last day of employment. In such cases, the GPO does not apply.

Although individuals could have used this exemption since 1977, knowledge of this "last-day" loophole did not become widespread until recent years. According to the General Accounting Office (GAO), nearly all of the cases they identified in which individuals took advantage of this loophole occurred in the last several years.

For example, the GAO reported one-fourth (3,521) of all Texas public education retirees took advantage of this loophole in 2002. In most cases, teachers typically worked a single day in a non-teaching position (clerical, food service, or maintenance). Most of these employees paid about \$3 in Social Security payroll taxes. The average spousal benefit resulting from these last-day loophole jobs would be an additional \$5,200 a year.

The 5-year rule adopted in this provision has precedent in 1987 legislation allowing Federal employees covered by the old Civil Service Retirement System (CSRS) to elect coverage under Social Security as part of the transition to the new Federal Employees Retirement System (FERS). That legislation required Federal employees who transferred from CSRS to FERS and Social Security to work for at least 5 years before retirement in order to be exempt from the GPO.

This change will establish uniform application of the GPO exemption for all Federal, State, and local government workers who

elect to join Social Security through the referendum process provided under current law.

Effective Date

The provision is effective for applications filed after the month of enactment. However, the provision would not apply to individuals whose last day of employment for the State or local governmental entity was covered by Social Security and occurs on or before December 31, 2003.

Sec. 419. Post-1956 Military Wage Credits

Present Law

Prior to January 1, 2002, members of the uniformed services were deemed to be paid amounts greater than their actual taxable wages. These deemed wages were designed to increase Social Security benefits for persons with military service by giving them credit for various tax-free benefits such as in-kind food and housing allowances. The Social Security trust funds (and later the Medicare HI trust fund) have received various transfers from general funds over the years (most recently from DoD appropriations) designed to offset the cost of these additional benefits. The FY 2002 Department of Defense Appropriations Act (Public Law 107-117) eliminated deemed wage credits for all years after calendar year 2001. However, the amount owed for 2000 and 2001 remains outstanding.

Explanation of Provision

This provision would transfer from general funds to the Social Security and Medicare trust funds the remaining balance owed for 2000 and 2001, and make conforming amendments to reflect the termination of deemed military wage credits.

Reason for Change

This provision would constitute a full and final accounting of the amount owed to the trust funds for deemed military wage credits.

Effective Date

Upon enactment.

SUBTITLE C. TECHNICAL AMENDMENTS

Section 421. Technical Correction Relating to Responsible Agency Head

Present Law

The Social Security Act directs "the Secretary of Health and Human Services" to send periodic Social Security Statements to individuals.

Security Statements to individuals.

Explanation of Provision

The new provision makes a technical correction by inserting a reference to the Commissioner of Social Security in place of the Secretary of Health and Human Services.

Reason for Change

The "Social Security Independence and Program Improvements Act of 1994" (P.L. 103-296) made the Social Security Administration an independent agency separate from the Department of Health and Human Services. This provision updates Section 1143 to reflect that change.

Effective Date

Upon enactment.

*Section 422. Technical Correction Relating to Retirement Benefits of Ministers**Present Law*

The "Small Business Job Protection Act of 1996" (P.L. 104-188) established that certain retirement benefits received by ministers and members of religious orders (such as the rental value of a parsonage or parsonage allowance) are not subject to Social Security payroll taxes. However, these retirement benefits are treated as net earnings from self-employment for the purpose of acquiring insured status and calculating Social Security benefit amounts.

Explanation of Provision

The new provision makes a conforming change to exclude these benefits received by retired clergy from Social Security-covered earnings for the purpose of acquiring insured status and calculating Social Security benefit amounts.

Reason for Change

P.L. 104-188 provided that certain retirement benefits received by ministers and members of religious orders are not subject to payroll taxes. However, a conforming change was not made to the Social Security Act to exclude these benefits from being counted as wages for the purpose of acquiring insured status and calculating Social Security benefit amounts. This income is therefore not treated in a uniform manner. This provision would conform the Social Security Act to the Internal Revenue Code with respect to such income.

Effective Date

Effective for years beginning before, on, or after December 31, 1994 which is the same Section 1456 of P.L. 104-188.

*Section 423. Technical Correction Relating to Domestic Employment**Present Law*

Present law is ambiguous concerning the Social Security coverage and tax treatment of domestic service performed on a farm. Domestic employment on a farm appears to be subject to two separate coverage thresholds (one for agricultural labor and another for domestic employees).

Explanation of Provision

The new provision clarifies that domestic service on a farm is treated as domestic employment, rather than agricultural labor, for Social Security coverage and tax purposes.

Reason for Change

Prior to 1994, domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural labor. According to the SSA, in 1994, when Congress amended the law with respect to domestic employment, the intent was that domestic employment on a farm would be subject to the coverage threshold for domestic employees instead of the threshold for agricultural labor. However, the current language is unclear, making it appear as if farm domestics are subject to both thresholds.

Effective Date

Upon enactment.

*Section 424. Technical Correction of Outdated References**Present Law*

The Social Security Act and the Internal Revenue Code of 1986 each contain a number of outdated references that relate to the Social Security program.

Explanation of Provision

The new provision corrects outdated references in the Social Security Act and the Internal Revenue Code by correcting a citation respecting a tax deduction related to health insurance costs of self-employed individuals, and eliminating a reference to an obsolete 20-day agricultural work test.

Reason for Change

Over the years, provisions in the Social Security Act, the Internal Revenue Code and other related laws have been deleted, re-designated or amended. However, necessary conforming changes have not always been made. Consequently, the Social Security law and the Internal Revenue Code contain some outdated references.

Effective Date

Upon enactment.

*Section 425. Technical Correction Respecting Self-Employment Income in Community Property States**Present Law*

The Social Security Act and the Internal Revenue Code provide that, in the absence of a partnership, all self-employment income from a trade or business operated by a married person in a community property State is deemed to be the husband's unless the wife exercises substantially all of the management and control of the trade or business.

Explanation of Provision

Under the new provision, self-employment income from a trade or business that is not a partnership, and that is operated by a married person in a community property State, is taxed and credited to the spouse who is carrying on the trade or business. If the trade or business is jointly operated, the self-employment income is taxed and credited to each spouse based on his or her distributive share of gross earnings.

Reason for Change

Present law was found to be unconstitutional in several court cases in 1980. Since then, income from a trade or business that is not a partnership in a community property State has been treated the same as income from a trade or business that is not a partnership in a non-community property State—it is taxed and credited to the spouse who is found to be carrying on the business.

This change will conform the provisions in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States.

Effective Date

Upon enactment.

*Section 426. Technical Changes to the Railroad Retirement and Survivors' Improvement Act of 2001**Present Law*

The "Railroad Retirement and Survivors" Improvement Act of 2001" (Public Law 107-90) established the Railroad Retirement Investment Trust to invest the assets of the railroad retirement program in a special trust fund created outside of the general fund of the U.S. Treasury. An independent Board of Trustees was appointed to administer the Trust. The Trustees are responsible for establishing investment guidelines for the prudent management of trust fund assets and for selecting outside investment advisors and managers to implement investment policies.

Explanation of Provisions

Quorum Rules—Clarifies that a vacancy on the Board of the Trust does not preclude the Board from making changes in the Investment Guidelines with the unanimous vote of all remaining Trustees.

Certain Transfers—Clarifies that the Railroad Retirement Board can require the Trust to transfer amounts to the Railroad Retirement Account (RRA), and that excess Social Security Equivalent Benefits Account assets can be transferred to the RRA until used to pay benefits.

Investment of Assets—Clarifies that the Trust may invest the assets in accordance with its investment guidelines either directly or through the retention of outside investment managers.

Clerical Changes—Makes a number of grammatical and typographical changes.

Other Board Powers—Consolidates the Board's administrative powers and specifies that such powers include the ability to execute necessary business functions such as entering into contracts and

taking all other necessary steps to make and secure trust investments in a prudent manner.

State and Local Taxes—Clarifies that the Trust is exempt from income, sales and use taxes imposed or levied by a State, political subdivision, or local taxing authority.

Funding of Administrative Expenses—Deletes a redundant paragraph regarding the Trust's authority to pay its administrative expenses.

Investment in Federal Securities in Non-Governmental Accounts—Clarifies that the Trust may purchase qualifying Federal obligations for investment of assets transferred from the SSEB Account either directly or through a commingled account that is invested only in such qualifying federal obligations, and reinvest earnings on such Federal obligations in the same manner.

Quarterly Transfers to RRB—Clarifies that the Trust may transfer amounts to the RRB for the payment of benefits on a quarterly basis (or on such other basis upon which the RRB and Trust may agree).

Reason for Change

All nine changes are technical in nature and are needed to promote the efficient implementation of the Railroad Retirement and Survivors' Improvement Act of 2001.

Effective Date

Upon enactment.

SUBTITLE D. AMENDMENTS RELATED TO TITLE XVI

Section 430. Exclusion From Income for Certain Infrequent or Irregular Income and Certain Interest or Dividend Income

Present Law

An individual who has no countable income, and who meets all other SSI eligibility criteria, is eligible to receive Federal Supplemental Security Income (SSI) benefits equal to the amount of the Federal Benefit Rate (FBR), which is \$552 a month for an individual or \$829 a month for a couple in 2003. If the individual has countable income (i.e., total income minus applicable exclusions), the payment amount is reduced by \$1 for each \$1 of countable income, whether earned or unearned. An individual with countable income greater than the FBR is not eligible for a federal cash benefit.

Several exclusions apply to the calculation of countable earned and unearned income. One such provision is for the exclusion of infrequent or irregular income. Under current law, an individual can receive up to \$20 of infrequent or irregular unearned income per month and up to \$10 of infrequent or irregular earned income per month. Income is considered to be infrequent if it is received no more than once in a calendar quarter from a single source. Income is considered to be irregular if the recipient could not reasonably expect to receive the income. Both exclusions are "all or nothing." That is, if either the "infrequent or irregular" earned income or "infrequent or irregular" unearned income exceeds their respective monthly limits, none of the income in that category can be excluded.

In order to be eligible for SSI, recipients must have countable resources of no more than \$2,000 for individuals or \$3,000 for couples. If an SSI recipient receives interest or dividend income on these countable resources, this income is excluded as infrequent or irregular income only if it is credited on a quarterly basis. Interest or dividend income received on a monthly basis is countable as unearned income.

Explanation of Provision

This provision changes the calculation of infrequent and irregular income from a monthly to a quarterly basis. Therefore, individuals could exclude \$60 per quarter of unearned income and \$30 per quarter of earned income that is received irregularly and infrequently. This provision also excludes from the determination of an individual's income all interest and dividend income earned on countable resources.

Reason for Change

The original SSI legislation enacted in 1972 contained a provision excluding infrequent and irregular unearned income of \$60 per quarter and earned income of \$30 per quarter. The intent in excluding these amounts was to simplify administration of the SSI program by allowing SSA to ignore occasional small gifts and small amounts of earnings. However, the "Omnibus Budget Reconciliation Act of 1981" changed the amount of the exclusion to \$20 a month for unearned and \$10 a month for earned income to conform with the change from a quarterly to a monthly accounting system. This change unintentionally disadvantaged some SSI beneficiaries by lowering the cap on the amount of infrequent or irregular income that could be excluded at one time.

The provision restores the exclusion for infrequent or irregular income to its original quarterly basis. This change will permit an individual to receive small gifts, or payment for infrequent jobs such as babysitting, without worrying that fairly insignificant amounts of income would adversely affect his or her benefits. For example, under current law, a \$25 cash birthday gift would be counted as income to the individual. Under this proposal, such a relatively insignificant gift would not be counted as income if the income did not exceed the quarterly limit. The change will also simplify program administration by reducing the need to make benefit adjustments due to small amounts of infrequently-received income.

The exclusion from countable income of all interest and dividend income earned on countable resources under this provision would simplify the administration of the program by eliminating the need to track small interest or dividend payments (which would generally amount to only a few dollars a month because they would be earned on resources currently limited to a maximum value of \$2,000 or \$3,000) and the need to adjust benefit amounts and pursue the recovery of overpayments arising from to minor fluctuations in interest and dividend income.

Effective Date

The change is effective with respect to benefits payable for months that begin more than 90 days after the date of enactment.

Section 431. Uniform 9-Month Resource Exclusion Periods

Present Law

The SSI program limits the amount of resources beneficiaries may have to \$2,000 for individuals and \$3,000 for couples. Resources consist of cash, other liquid assets, or property that an individual owns and could convert to cash. Certain types of cash payments are excluded from resources for specific periods of time. Currently, State and local crime victim's assistance and State and local relocation assistance payments are excluded for 9 months after the month of receipt; retroactive Social Security and SSI payments are excluded for 6 months after the month of receipt; and Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) payments are excluded for 1 month after the month of receipt. After the expiration of the time period, any remaining value of the payment becomes a countable resource for purposes of determining SSI eligibility.

Explanation of Provision

This provision increases to 9 months and makes uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits, EITC payments, and CTC payments.

Reason for Change

The resource exclusion periods are intended to allow beneficiaries who receive significant sums of money sufficient time to meet outstanding obligations or needs before the sums become countable as assets, which could result in SSI ineligibility. The legislative history of these provisions provides no rationale for the differing exclusion time periods permitted for excluding various types of payments. Uniformity simplifies SSI administration and improves the public's understanding of the SSI program. Moreover, increasing the length of the exclusion period for some of these payments allows beneficiaries more time to meet outstanding obligations or needs and reduces current incentives to spend payments rapidly, and perhaps imprudently, to avoid exceeding resource limits.

Effective Date

The change is effective for benefits payable on or after the date of enactment.

Section 432. Modification of the Dedicated Account Requirement

Present Law

The SSI program requires that past-due benefits to a disabled child that are greater than six times the maximum monthly SSI benefit be deposited in a special account and be used by the child's parents or representative payee only for certain specified purposes related to the impairment (or combination of impairments) of the beneficiary.

Explanation of Provision

This provision modifies the dedicated account requirement by allowing the funds in the account to be used for reimbursement of

past expenditures incurred by the child's parent or representative payee that were for the good of the beneficiary. The modification also clarifies that funds from the dedicated account can be used for any purpose that is for the good of the beneficiary, not just for certain specified purposes related to the impairment of the beneficiary.

Reason for Change

Field office employees of the Social Security Administration have remarked that the current law rules and regulations for dedicated accounts are overly intrusive, very cumbersome administratively, and lead to unsatisfactory results for some families trying to meet the needs of a disabled child in their family. The change will allow more flexibility in the administration of dedicated accounts by clearly allowing any expenses that are for the good of the beneficiary to be drawn from the account. This change to the SSI program will also make the treatment of funds in these accounts consistent with the requirements placed on representative payees, including parents, who receive payments on behalf of children who do not have dedicated accounts, and those children who are survivors or dependents under Title II.

Effective Date

The provision would be effective on January 1, 2004 and apply with respect to expenditures of funds from dedicated accounts on or after that date, or accounts established on or after that date.

Section 433. Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion

Present Law

The earned income of a beneficiary who is a child and who is determined to be a student is excluded subject to limits prescribed by SSA. Currently, the program excludes up to \$1,340 a month, but no more than \$5,410 a year. To be eligible for the exclusion, an individual must be a child—defined as an unmarried individual under age 22 who is not the head of a household—and must also be a student regularly attending a school, college, university, or a course of vocational or technical training designed to prepare him or her for gainful employment.

Explanation of Provision

This provision permits the student earned income exclusion to apply to any individual under age 22 who is a student. Therefore, students under age 22 who are married or heads of households will now be eligible for the exclusion.

Reason for Change

The intent of the original student earned income exclusion was to help a student to finance school attendance, to recognize the special expenses that many students with disabilities incur to attend school, and to provide tangible incentives to encourage work and education. Because the definition of the term "child" under SSI rules includes the requirement that an individual be neither married nor the head of a household, young married and single parent

students do not have the incentive from an earned income exclusion that is available to other students. It is not reasonable or equitable to deny married individuals or heads of households an exclusion which may make the difference in their ability to attend school and progress toward self-sufficiency.

Effective Date

The change is effective for benefits payable for months that begin 1 year after the date of enactment.

Section 434. Exclusion of Americorps and Other Volunteer Benefits for Purposes of Determining Supplemental Security Income Eligibility and Benefit Amounts and Social Security Disability Insurance Entitlement

Present Law

Americorps volunteers receive a living allowance during their participation in the program, and may also receive an educational award. For volunteers in the Americorps VISTA programs, these payments are categorically excluded from income in the SSI program and are not counted as earnings for trial work period (TWP) and substantial gainful activity (SGA) purposes in the Title II disability program. However, Americorps volunteers who are not in the VISTA program have these payments counted as earnings both for the SSI program and for TWP and SGA purposes in the Title II disability program. In addition, current SSI rules count room and board provided for non-VISTA volunteers under the Americorps program as in-kind support and maintenance.

Explanation of Provision

This provision excludes all payments and benefits to all Americorps volunteers, both cash and in-kind, for the purpose of determining SSI eligibility and benefit amounts, and for the purpose of determining initial and continuing eligibility for Social Security disability insurance benefits.

Reason for Change

This provision eliminates the disparate treatment in the SSI and Title II disability programs between payments to volunteers in the Americorps VISTA program and payments to other Americorps volunteers, and between payments in cash and in-kind. This change removes current disincentives that may prevent young people with disabilities from participating in the Americorps program.

Effective Date

The change is effective for benefits payable for months that begin 60 days after the date of enactment.

Section 435. Exception to Retrospective Monthly Accounting for Nonrecurring Income

Present Law

SSI benefit amounts are determined under a system known as "retrospective monthly accounting" (RMA). Under RMA, the SSI benefit payment for the current month is based on a recipient's circumstances in the second prior month. For example, countable in-

come received in October determines the SSI payment for December. For individuals newly eligible for SSI, however, there is a transition to RMA during the first 3 months of eligibility for payment. During this transition period, countable income received in the first month determines the payment amount for the first month and also for each of the following 2 months. For example, if the first month of payment eligibility is October, countable income received in October determines the payment amounts for October, November and December.

Explanation of Provision

Under this provision, one-time, nonrecurring income is counted only for the month that the income is received, and not for any other month in the transition to RMA during the first 3 months of an individual's SSI eligibility. This exception would not apply to income that is ongoing but the amounts of which fluctuate.

Reason for Change

In some cases in which an individual has non-recurring income in the first month of SSI payment eligibility, the application of RMA during the first 3 months of such eligibility can result in more income being counted than is actually received. In such cases during the 3-month period, SSI benefits may be reduced by \$3 for each \$1 of income received, instead of by the normal and equitable \$1 for each \$1 of income received. This provision would eliminate the triple counting of one-time, nonrecurring income, thereby more accurately and fairly reflecting an individual's financial means.

Effective Date

The provision is effective for benefits payable for months that begin on or after 1 year following the date of enactment.

Section 436. Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled After Their Military Parents Are Stationed Overseas

Present Law

An individual must generally be a U.S. resident and present in the United States to receive SSI benefits. An exception is made for blind and disabled children of U.S. military personnel stationed overseas. These children are eligible for SSI benefits if the child received SSI benefits in the month before the parents reported overseas. Those children of U.S. military personnel who are born, who become blind or disabled, or who first apply for SSI benefits while overseas are not eligible for SSI benefits.

Explanation of Provision

This provision extends the current law eligibility for SSI for blind and disabled children of military personnel overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.

Reason for Change

This amendment would eliminate the disparate treatment with regard to SSI eligibility between blind and disabled children of military personnel overseas who were eligible for SSI before they went overseas and those children who were born, became blind or disabled, or first applied for SSI benefits after going overseas. This provision would be a reasonable change in the law to protect a specific, limited group of children who reside outside the United States only because their parents are serving their country by being stationed overseas.

Effective Date

The provision is effective for benefits payable for months beginning after enactment but only on the basis of an application filed after enactment.

*Section 437. Treatment of Education-Related Income and Resources**Present Law*

Income from grants, scholarships or fellowships used to pay for tuition or educational fees is excluded in determining SSI eligibility and benefit amounts. However, monetary gifts to an SSI recipient are counted as unearned income even if the money is used to pay for tuition or educational fees.

Explanation of Provision

This provision excludes from the determination of income any gift to an individual for use in paying tuition or educational fees, just as grants, scholarships and fellowships for such use are currently excluded from the determination of income. The provision also excludes grants, scholarships, fellowships, or gifts to be used for tuition or education fees from an individual's countable resources for 9 months after the month of receipt.

Reason for Change

Permitting the exclusion of such gifts when determining SSI eligibility and benefit amounts could permit and encourage familial and community support of an individual's education and thus increase the chances that such an individual might become self-sufficient and leave the SSI rolls.

Effective Date

The change is effective for benefits payable for months that begin more than 90 days after the date of enactment.

*Section 438. Monthly Treatment of Uniformed Service Compensation**Present Law*

Members of the uniformed services are paid on the first day of the month for work performed in the previous calendar month, and are paid at mid-month as partial payment of the amount due for the current calendar month. Earnings statements are issued monthly, reflecting monthly compensation earned in 1 month, but paid in two installments in two different months. For example, a

leave and earnings statement dated February 1 shows the compensation for January in one sum, which includes payments received on January 15 and February 1 (the date of the statement). Therefore, SSA field office personnel must have two monthly leave and earnings statements to determine 1 month's income, and the income reported on each statement must be broken down to determine how much was received in each month.

Explanation of Provision

This provision would count cash military compensation as reported on a monthly leave and earnings statement issued by the military, which reflects compensation earned in the prior month, as received in the prior month.

Reason for Change

The provision would simplify the determination of countable income in SSA field offices by making it unnecessary to view earnings statements for two months to determine one month's earnings.

Effective Date

The change is effective for benefits payable for months beginning at least 90 days after the date of enactment.

Section 439. Update for Resource Limit

Present Law

The SSI program limits the amount of resources beneficiaries may own and still be eligible for benefits. These limits are \$2,000 for individuals and \$3,000 for couples. The resource limits were last updated by The Deficit Reduction Act of 1984 (PL 98-369), with the last installment of the update taking place in 1989.

Explanation of Provision

This provision changes the resource limits to \$3,000 for individuals and \$4,500 for couples, and subsequently indexes the amounts for inflation in the same manner as the maximum SSI benefit amount is indexed.

Reason for Change

If the resource limits for SSI had been indexed for inflation since the enactment of the program in 1972, the limits would currently be roughly \$6,000 for an individual and \$9,000 for a couple. This provision to update the resource limits will allow SSI beneficiaries to save more of their resources to cover costs of an urgent nature or of significant size—such as health emergencies, storm damage, home repairs, or winter utility bills—that because of their size or immediacy could not be covered by the monthly benefit payment that the recipient uses to pay for ongoing basic needs such as food, clothing and shelter. In addition, the change will allow some individuals who are elderly or disabled and have very low incomes to apply for and receive SSI while holding onto a slightly larger amount of resources for these types of future “rainy day” needs. The Committee recognizes that the change to the resource limits will increase Federal expenditures by \$3.8 billion over 10 years. Therefore, the Committee has included in this legislation several

provisions that will produce an equal amount of budgetary savings. The Committee believes that savings in the SSI program should be used to improve the benefits in the SSI program.

Effective Date

The increase to \$3,000 and \$4,500 is effective for benefits payable for January 2004. Indexing the resource limits is effective January 1, 2005.

Section 440. Review of State Agency Blindness and Disability Determinations

Present Law

State agencies are required to conduct blindness and disability determinations to establish an individual's eligibility for: (1) Title II (Federal Old-Age, Survivors, and Disability Insurance (OASDI) benefits); and (2) Title XVI (Supplemental Security Income (SSI)). Disability determinations are made in accordance with disability criteria defined in statute as well as standards promulgated under regulations or other guidance.

Under current law, the Commissioner of Social Security is required to review the State agencies' Title II blindness and disability determinations in advance of awarding or continuing payment to individuals. This requirement for review is met when: (1) at least 50 percent of all initial allowances have been reviewed, and (2) other such determinations have been reviewed as necessary to ensure a high level of accuracy.

Explanation of Provision

After a 1-year phase-in, the bill aligns disability and blindness review requirements for Title XVI with those currently required under Title II. As under Title II, the Commissioner of Social Security would be required to review initial Title XVI blindness and disability determinations made by State agencies in advance of awarding payments. For FY2004, the review would be required for at least 25 percent of all State-determined allowances made after March 2004. In FY2005 and thereafter, review would be required for at least 50 percent of State-determined allowances. To the extent feasible, the bill requires the Commissioner to select for review those State agency determinations that are most likely to be incorrect.

Reason for Change

The provision will improve the integrity of the Supplemental Security Income program.

Effective Date

The proposal is effective January 1, 2004.

III. BUDGET EFFECTS OF THE BILL

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office on the budgetary impact of the legislation:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 28, 2003.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,

U.S. SENATE, WASHINGTON, DC.

DEAR CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for H.R. 743, the Social Security Protection Act of 2003. We have made minor clarifications in the text of an estimate that we sent you on October 24. The estimated budgetary effects, however, are unchanged.

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

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 743—Social Security Protection Act of 2003

Summary: H.R. 743 would:

- Strengthen the Social Security Administration's (SSA's) oversight of representative payees (people who handle benefit checks for others, such as children or mentally impaired adults);
- Bar fugitives from receiving Social Security benefits;
- Enhance SSA's ability to enforce rules that limit Social Security benefits for people with pensions from noncovered work in state and local government, and close a loophole that now enables some to skirt those restrictions by switching jobs briefly;
- Broaden the agency's ability to recover past overpayments in the Supplemental Security Income (SSI) program from Social Security benefits and vice versa;
- Reduce how much SSA may charge attorneys when it remits their fee directly from accrued benefits of successful claimants;
- Expand eligibility of people with some resources for SSI and, consequently, Medicaid; and
- Step up federal review of SSI awards made by state agencies.

On balance, enacting H.R. 743 would lead to small net costs in 2004 and 2005 and net savings thereafter. In total, CBO estimates that H.R. 743 would reduce direct spending and boost revenue by \$0.6 billion over the 2004–2013 period. The federal budget classifies the Social Security portion of that figure (–\$3.3 billion) as “off budget” and the rest (\$2.7 billion) as “on-budget.” (One provision would transfer \$0.7 billion from the on- to the off-budget side of the ledger, which swells both figures but does not affect the total.)

H.R. 743 would also affect discretionary spending. CBO estimates that implementing the bill would cost SSA about \$20 million to \$30 million annually for extra enforcement and processing activities.

The Joint Committee on Taxation has reviewed the tax provisions of H.R. 743 and determined those provisions contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO reviewed the rest of the act for mandates. Section 4 of UMRA excludes from the provi-

sions of that act any provision in a bill or act that relates to the Old-Age, Survivors, and Disability Insurance program (OASDI) under title II of the Social Security Act. The provisions of H.R. 743 that amend title II of the Social Security Act would fall within that exclusion. Other provisions would preempt certain state laws; the costs resulting from those mandates, if any, would be significantly below the threshold established in UMRA (\$60 million in 2004, adjusted annually for inflation). Changes to the SSI program would lead to additional state spending for Medicaid, but those changes would not result in mandates as defined in UMRA. The act does contain one private-sector mandate, but CBO estimates that its cost would not exceed the UMRA threshold (\$120 million in 2004, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 743 are shown in Table 1. The costs of the legislation fall within budget functions 550 (health), 570 (Medicare), 600 (income security), and 650 (Social Security).

Basis of estimate: About a dozen of H.R. 743's provisions account for its estimated budgetary effects. They are listed in Table 2. For this estimate, CBO assumes that H.R. 743 will be enacted this fall.

TABLE 1.—ESTIMATED EFFECTS OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2003, BY TITLE

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING (OUTLAYS)										
Title I: Protection of Beneficiaries	7	9	5	*	*	*	*	*	*	*
Title II: Program Protections	- 59	- 116	- 226	- 279	- 328	- 390	- 424	- 413	- 415	- 420
Title III: Attorney Fee Payment System Improvements	12	24	25	27	28	29	31	32	33	34
Title IV: Miscellaneous and Technical Amendments:	49	116	183	226	268	285	288	277	269	243
Total Direct Spending:										
On-budget	735	40	130	187	241	263	270	269	283	284
Off-budget	- 727	- 8	- 143	- 213	- 273	- 338	- 376	- 372	- 395	- 427
Total	9	32	- 12	- 26	- 32	- 75	- 105	- 104	- 113	- 143
CHANGES IN REVENUES										
Title IV: Miscellaneous and Technical Amendments:										
On-budget	- 2	*	*	*	*	*	*	*	*	*
Off-budget	1	1	2	2	3	3	3	4	4	5
Total	- 1	1	2	2	3	3	3	4	4	5
NET CHANGES IN DIRECT SPENDING AND REVENUES (EFFECT ON DEFICITS)										
Direct Spending and Revenues (Net):										
On-budget	737	40	130	187	241	263	270	269	283	284
Off-budget	- 727	- 9	- 144	- 215	- 276	- 341	- 379	- 376	- 400	- 432
Total	10	31	- 14	- 28	- 34	- 78	- 109	- 108	- 117	- 148
CHANGES IN SPENDING SUBJECT TO APPROPRIATION (OUTLAYS)										
Spending Subject to Appropriation										
On-budget	14	16	15	16	17	17	18	18	18	19
Off-budget	5	4	11	7	8	8	8	6	7	7
Total	19	20	26	23	25	25	26	24	26	26

NOTES: Details may not add to totals because of rounding.
The Congressional Budget Act labels revenues and outlays of the Social Security trust funds "off-budget."
* = Less than \$500,000.

TABLE 2.—ESTIMATED EFFECTS OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2003, BY MAJOR PROVISION

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING (OUTLAYS)										
Title I: Protection of Beneficiaries										
Authority to Reissue Certain Misused Benefits:										
OASDI ^a	2	*	*	*	*	*	*	*	*	*
SSI	1	*	*	*	*	*	*	*	*	*
Survey of Use of Payments by Representative Payees	4	9	5	*	*	*	*	*	*	*
Subtotal, Title I	7	9	5	*	*	*	*	*	*	*
Title II: Program Protections										
Denial of Title II Benefits to Fugitives:										
OASDI ^a	- 10	- 30	- 44	- 55	- 59	- 61	- 63	- 66	- 68	- 70
Medicare	- 1	- 4	- 11	- 15	- 19	- 22	- 23	- 25	- 25	- 27
Information on Pensions from Noncovered Employment	0	*	- 125	- 185	- 240	- 300	- 330	- 315	- 315	- 315
Cross-program Recovery of Overpayments:										
OASDI ^a	- 1	- 3	- 3	- 3	- 3	- 3	- 3	- 3	- 2	- 2
SSI	- 48	- 79	- 43	- 21	- 7	- 4	- 5	- 5	- 5	- 6
Subtotal, Title II	- 59	- 116	- 226	- 279	- 328	- 390	- 424	- 413	- 415	- 420
Title III: Attorney Fee Payment System Improvements:										
Cap on Attorney Assessments Offsetting Receipts, OASDI ^a	12	24	25	27	28	29	31	32	33	34
Title IV: Miscellaneous and Technical Amendments										
Demonstration Authority Sunset Date:										
OASDI ^a	*	2	5	5	5	5	5	5	5	5
Coverage under Divided Retirement Systems:										
OASDI ^a	*	*	*	*	*	*	*	*	*	1
60-month Employment Requirement for Exemption from GPO:										
OASDI ^a	*	*	- 1	- 2	- 4	- 8	- 15	- 26	- 49	- 80
Post-1956 Military Wage Credits:										
Payments to Trust Funds	903	0	0	0	0	0	0	0	0	0
Offsetting Receipt, OASDI ^a	- 730	0	0	0	0	0	0	0	0	0
Offsetting receipt, HI	- 173	0	0	0	0	0	0	0	0	0
Amendments related to SSI (Subtitle D)										
Update for Resource Limit:										

TABLE 2.—ESTIMATED EFFECTS OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2003, BY MAJOR PROVISION—Continued

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
SSI	6	14	19	18	21	22	23	26	23	26
Medicaid	45	110	185	240	290	335	370	405	440	485
Medicare	5	20	35	55	80	90	100	105	115	120
Review of State Agency Determinations:										
SSI	- 3	- 11	- 20	- 28	- 39	- 48	- 57	- 71	- 67	- 81
Medicaid	- 4	- 19	- 40	- 62	- 85	- 111	- 138	- 167	- 198	- 233
Other SSI Provisions	*	*	*	*	*	*	*	*	*	*
Subtotal, Title IV	49	116	183	226	268	285	288	277	269	243
Total Changes in Direct Spending:										
On-budget	735	40	130	187	241	263	270	269	283	284
Off-budget	- 727	- 8	- 143	- 213	- 273	- 338	- 376	- 372	- 395	- 427
Total	9	32	- 12	- 26	- 32	- 75	- 105	- 104	- 113	- 143
CHANGES IN REVENUES										
Title IV: Miscellaneous and Technical Amendments										
Coverage under Divided Retirement Systems:										
OASDI Revenues *	1	1	2	2	3	3	3	4	4	5
Other Revenues	*	*	*	*	*	*	*	*	*	*
Clarification of Tax Treatment of Individual Work Plans	- 2	*	*	*	*	*	*	*	*	*
Total Changes in Revenues:										
On-budget	- 2	*	*	*	*	*	*	*	*	*
Off-budget	1	1	2	2	3	3	3	4	4	5
Total	- 1	1	2	2	3	3	3	4	4	5
CHANGES IN SPENDING SUBJECT TO APPROPRIATION (OUTLAYS)										
OASDI Administrative Expenses *	5	4	11	7	8	8	8	6	7	7
SSI Administrative Expenses	14	16	15	16	17	17	18	18	19	19
Total Changes	19	20	26	23	25	25	26	24	26	26

Notes: Details may not add to totals because of rounding.
OASDI=Old-Age, Survivors, and Disability Insurance (title II of Social Security Act); SSI=Supplemental Security Income (title XVI); GPO=government pension offset; HI=Hospital Insurance (title XVIII).
* = Less than \$500,000.
• Off-budget.

Direct-Spending and Revenues

Title I—Protection of Beneficiaries. Nearly seven million people—three million adults and four million children—who get Social Security, SSI, or both have their checks sent to a representative payee who helps manage their finances. The payee must use the money to meet the beneficiary's needs and report certain events, such as changes in the beneficiary's income or school attendance, to SSA. In most cases, a family member serves as a representative payee. But attorneys, guardians, and other nonrelatives, social service agencies, institutions, and organizations also serve as payees, especially for disabled adults. About 45,000 organizations serve as representative payees for about 750,000 clients. SSA approves representative payees, requires annual reports from them, and conducts on-site reviews every three years of certain payees who serve a large number of beneficiaries.

H.R. 743 would direct SSA to certify annually that social service agencies meet licensing and bonding requirements and to conduct periodic on-site inspections of more representative payees. This would enhance SSA's ability to recover misused funds and to impose civil monetary penalties.

Most of the provisions would have negligible effects on benefit payments or recoveries. One section, however, would require SSA to pay beneficiaries any amounts that had been misused by an organizational representative payee. (Currently, such claimants must show negligence by SSA.) "Misuse" means converting funds to the payee's own use or any purpose other than the use and benefit of the client. The provision would be retroactive to January 1, 1995.

According to SSA, representative payees misuse about \$3 million in benefits each year. Although SSA's Inspector General (IG) has found weaknesses in internal controls of some organizational payees, few of the resulting errors would constitute misuse. Because organizations handle about 12 percent of the dollars flowing through representative payees, CBO estimates that reimbursing nine years' worth of misused benefits would cost \$3 million in 2004. Extra costs in 2005 through 2013 would be negligible.

The IG has issued many audits of representative payees, but most have focused on particular organizations and make it difficult to draw conclusions about nationwide patterns. H.R. 743 would direct the IG to conduct a national, statistically representative study of all types of payees—relatives, nonrelatives, institutions, local government agencies, and organizations. The legislation would provide \$17.8 million for that study from SSA's section 1110 research budget, normally reserved for research performed outside SSA under grants or contracts. CBO assumes that those funds would be spent in 2004 through 2006.

Title II—Program Protection. This title would add to SSA's tools for avoiding or recovering erroneous payments and would bar payment of Social Security benefits to fugitives from the law.

Fugitive Provisions. In 1996, Congress barred SSI benefits to people with outstanding arrest warrants, whether they were convicted felons or people avoiding prosecution. H.R. 743 would extend that policy to Social Security. CBO estimates the provision would reduce Social Security spending by \$10 million in 2004 and \$525 million over the 2004–2013 period. CBO also estimates that the policy would save \$172 million in Medicare over the 10 years.

CBO used data reported by SSA's IG to estimate those savings. The IG generalized from a sample of about 400 cases in 10 states to estimate that fugitives received between \$40 million and \$180 million in Social Security benefits in 1999. The midpoint of that range (\$110 million) reflected an estimated 15,000 fugitives with an average benefit of almost \$600 per month. Assuming that their number and average benefits keep pace with the overall program, CBO extrapolated that total to \$130 million in 2004 and \$175 million in 2013.

CBO expects, however, that savings would fall short of those figures. First, large-scale enforcement poses challenges. By tapping the National Crime Information Center (NCIC) and obtaining data directly from some states that do not report fully to the NCIC, SSA already has automated access to more than 80 percent of fugitive warrants. But the SSI experience shows that some records lack key information, such as full name and Social Security number, for an accurate match; some subjects are incarcerated (and have their benefits suspended under other provisions of law); some are even victims of identity theft. Verification, when successful, takes about two months, so that even a swift suspension almost inevitably involves some overpayments that are difficult to recover. Based on those hurdles, CBO assumes that about 60 percent of the savings identified by the IG are attainable.

Second, some people spotted when checking fugitive lists clear their records when their benefits stop, resulting in little or no long-term savings. Law-enforcement authorities focus on the most-serious offenders (either pursuing them aggressively or arresting them on new offenses) but rarely clear other warrants from the books. Thus, remaining warrants are disproportionately older—about 15 percent of state warrants, for example, are more than 10 years old—and usually cite nonviolent offenses such as drug possession and probation or parole violation. In such cases, "fugitives" with no subsequent convictions typically face nothing worse than a suspended sentence or probation. Some will take that calculated risk and voluntarily contact authorities. In a new study of the SSI provisions, the Inspector General found that one-third of people suspended under the fugitive provisions sometime during the 1996–2002 period were receiving SSI in February 2003, having satisfied their warrants. CBO thus subtracted another one-third from the potential savings, bringing the result to 40 percent of the IG's figure. CBO assumes those savings are attainable about two years after enactment. Early savings are more modest, as SSA signs data-sharing agreements with more states, writes regulations, and follows its verification and notice practices.

CBO assumes that 80 percent of fugitives who would be affected by this provision are disabled beneficiaries who qualify for Medicare. If they lost their health benefits too, extra savings in 2013 (when their average Medicare benefits—about \$9,600—almost match their assumed Social Security benefits, \$9,900) could reach \$54 million. However, their Social Security benefits would be suspended, not terminated. Suspension does not interrupt Medicare eligibility. Some Medicare savings would probably occur simply because beneficiaries fail to realize they remain eligible, fear using their Medicare card, or stop paying the premium (which is usually withheld from Social Security checks) for Part B coverage. CBO es-

timates that the resulting drop in use of Medicare benefits would save about half as much as an outright ban, or about \$27 million in 2013.

Information on Pensions from Noncovered Employment. State and local governments have been permitted to join Social Security since the 1950s. The Census Bureau counts 14 million active members and 6 million beneficiaries in 2,200 state and local government retirement plan. About one-quarter are not covered by Social Security. Most are clustered in a few states: California, Colorado, Georgia, Illinois, Louisiana, Maine, Massachusetts, Missouri, Ohio, and Texas. Elsewhere, exempt employees (if any) are usually police officers or firefighters.

A retiree with a pension from noncovered state or local employment, or from the federal system that covers civil servants hired before 1984, may have his or her Social Security benefit reduced or eliminated by two provisions of current law: the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO). CBO estimates that the GPO and WEP, as currently administered, will save Social Security \$56 billion over the 2004–2013 period and that H.R. 743 would boost that by \$2.1 billion. Because the GPO and WEP provisions also are discussed later, here is a brief description.

- Since 1986, the WEP has trimmed benefits for noncovered annuitants with “split careers”—those who also worked long enough in covered employment to qualify for Social Security (primary beneficiaries, in the program’s lexicon). It removes the tilt in favor of lower earners from their benefit formula. Social Security benefits depend on lifetime earnings, usually averaged over 35 years. Low average earnings, however, could result just as well from 25 years of well-paid noncovered work and 10 years under Social Security as from decades of covered employment at modest earnings. The Congress enacted the WEP, a slimmed-down formula that applies when workers also have an annuity from noncovered work, to make that distinction.¹

- The GPO reduces Social Security benefits when the annuitant qualifies for benefits as a spouse or widow(er)—that is, as secondary beneficiaries. The GPO’s drafters likened it to Social Security’s rules for other two-earner couples. A wife, for example, collects on her husband’s record only if the resulting benefit (about half of his) exceeds her own retired-worker benefit. She cannot combine the two amounts. Specifically, the GPO trims the Social Security benefit by \$2 for every \$3 of the noncovered pension—often erasing it entirely. The Congress acted quickly to enact the GPO after the Supreme Court held in 1977 that Social Security programs could no longer discriminate on the basis of gender.

For federal civil service retirees, SSA enforces the GPO and WEP provisions by matching data from the Office of Personnel Management. Otherwise, it must rely on claimants’ reports and alert em-

¹All Social Security benefits are based on a Primary Insurance Amount (PIA), which in turn depends on Average Indexed Monthly Earnings (AIME). For a retired worker, AIME is calculated by adjusting past earnings to current values, then averaging the top 35 years—essentially, ages 22 through 61, with the lowest 5 years dropped. For someone who reaches 62 in 2003, the PIA equals 90 percent times the first \$606 of AIME, 32 percent times the next \$3,047, and 15 percent times AIME over \$3,653, if any. (Those “bend points” rise with average wages.) The WEP formula generally uses 40 percent in place of the 90 percent factor. It makes exceptions for annuitants with at least 20 years of covered work and those with very small pensions.

ployees to spot potential GPO and WEP cases. (SSA staff ask about government pensions and are trained to notice gaps in earnings histories that may suggest noncovered employment.) H.R. 743 would direct the Internal Revenue Service (IRS) to require administrators of state and local pension plans to add coverage status to payment reports, presumably the 1099-R forms sent to participants and to the IRS, and share that information with SSA.

Studies in the mid-1990s by the General Accounting Office (GAO) and SSA of Illinois and Ohio pensioners, respectively, found that SSA had missed about 9 percent of people who ought to have been subject to GPO or WEP. State and local annuitants make up almost exactly half of people affected by the provisions. If the Illinois and Ohio patterns are typical, that suggests about 4.5 percent of potential cases avoid the GPO and WEP reductions. In fact, CBO assumed that figure had improved since the mid-1990s, through greater staff experience plus enhanced data on earnings in noncovered employment after 1977 (when the government switched from quarterly to annual crediting of wages). Thus, CBO substituted a 4 percent error rate.

CBO assumed that SSA would gain access to IRS data from the biggest noncovered plans even as IRS and SSA work out what changes, if any, to require in future 1099-R reports. By targeting in that way, CBO assumes that SSA could use some reports of pension income in 2004, which will be filed in 2005, to target the first batch of cases for suspension or reduction in 2006. SSA would also launch efforts to recover past overpayments to those beneficiaries. Although a few overpayments would stretch back 20 years, the average would be roughly 6 years. Some would not be recovered; SSA's most effective tool is to withhold them from regular monthly benefits, but the GPO—unlike the WEP—often erases the entire benefit. CBO assumed one-third of the overpayments would not be recovered and that SSA would recoup the bulk of the rest within the 4 years after discovery. As SSA matches with more pension plans' reports each year, annual savings would mount to an estimated \$300 million in 2009, peak at \$330 million in 2010, then stabilize as recoveries fade in importance.

Cross-program Recovery of Overpayments. As noted above, SSA's best tool for recovering overpayments is to subtract them from regular monthly checks. Current law permits SSA to do that under both titles II (Social Security) and XVI (SSI) of the Social Security Act, although deductions may not exceed 10 percent of monthly income in SSI.

Special rules apply when SSI recipients qualify for Social Security. If an SSI beneficiary receives a Social Security award that includes retroactive benefits, all of his or her SSI benefits for the same months are withheld from that lump-sum check. And if he or she has stopped receiving SSI but gets monthly Social Security checks, past SSI overpayments can be withheld, within limits.

Almost one-third of disabled adults on SSI get Social Security, and some title II beneficiaries formerly received SSI. As a means-tested program, SSI permits recipients to keep \$20 a month of unearned income (which includes Social Security) and offsets the rest.

In 2001, SSA found 130,000 people who were getting SSI when they should have received Social Security in addition or instead. Further digging by SSA boosted that number to about 300,000.

(Some are no longer receiving benefits.) Labeled “special-workload” cases, those people are entitled to a lump-sum payment for the months they should have received Social Security. Because of the programs’ interactions, that lump-sum check will be split: for example, of a retroactive check for \$300 a month for five years, \$1,200 will go to the individual and \$16,800 will go from the trust funds to the general fund of the Treasury as a recovered overpayment. SSA anticipates that about \$4 billion of the lump-sum payments to special-workload cases will be sent to the Treasury under that rule.

The law, though, limits SSA’s powers of “cross-program recovery” in certain narrow situations. Most immediately, it fails to cover some special-workload cases with SSI overpayments unrelated to the months covered by the Social Security award. If the two periods do not match exactly, SSA must withhold those unrelated overpayments chiefly from future Social Security benefits, not from the lump-sum check. H.R. 743 would authorize SSA to deduct them from the lump-sum. It also would authorize cross-program recovery in the rare cases where an SSI-only beneficiary has outstanding title II overpayments. (Current law has no provision for recovering Social Security overpayments from SSI benefits.)

Based on information from SSA, CBO estimates that enhanced tools for cross-program recovery would increase SSI recoveries by \$223 million over 10 years and Social Security recoveries by \$26 million. The SSI savings largely come from speeding up recoveries that SSA would have achieved eventually. Thus, most of the savings occur in 2004 through 2007 as SSA finishes processing the special workload.

Denial of Title II Benefits to Aliens Not Authorized to Be Employed in the United States. Section 212 of H.R. 743 would stipulate that, effective in January 2004, noncitizens who claim Social Security benefits must have been issued a Social Security number (SSN) “consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(I) [of the Social Security Act].” Those subclauses spell out the rules for assigning SSNs to aliens who are authorized to work in the United States: those admitted as legal permanent residents, and those who enter in another category (such as student or tourist, or “legal temporary resident” under the 1986 amnesty) and later change their status to legal permanent resident. The huge majority of native-born citizens, in contrast, receive SSNs soon after birth.

Subclause II of the same section governs the issuance of special numbers for nonwork purposes—specifically, when individuals seek benefits from federal, state, or local programs that require an SSN. Although there are no documented cases where an individual received Social Security benefits solely on a nonwork SSN, there are hypothetical situations where benefits might be paid.

In CBO’s judgment, H.R. 743 essentially reiterates the current-law link between Social Security benefits and valid SSNs, and thus would lead to little or no savings.

Title III—Attorney Representative Fee Payment System Improvements. Many Social Security claimants, especially disability applicants who win benefits on appeal, are represented by attorneys. A standard fee agreement between attorney and client pledges that the attorney will receive 25 percent of any past-due

benefits up to a cap of \$5,300. (That cap stood at \$4,000 for more than a decade until SSA raised it in 2002.) When SSA awards OASDI benefits in such cases, it pays the attorney fee directly from the past-due amounts. In contrast, when SSA awards SSI benefits only, or denies all benefits, the attorney must seek his or her fee from the client. Processing attorney fees is a labor-intensive chore, and in 1999 the Congress permitted SSA to withhold up to 6.3 percent of the amounts paid to offset some of those costs.

SSA pays attorney fees in about 200,000 OASDI cases and concurrent (OASDI and SSI) cases a year. The average fee, still dampened by the \$4,000 lid, is now about \$2,700, and the average processing charge about \$170. By 2013, CBO expects that annual volume will be about 240,000, the average fee about \$3,600, and hence the average charge about \$225. H.R. 743 proposes to cap the charge at \$75 with future adjustments for inflation. That would erase more than half of expected receipts, a loss of \$34 million in 2013. CBO estimates that over the 2004–2013 period the proposed fee cap would cost \$275 million.

Title IV—Miscellaneous and Technical Amendments. This title contains a variety of provisions with significant budgetary effects.

Demonstration Projects. H.R. 743 would amend sections of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) that govern SSA's research and demonstration projects. It would permanently authorize SSA to waive certain provisions of law, when appropriate, for demonstration projects. Currently such waivers expire in December 2004, even for projects already launched. The Congress first adopted the waiver language in 1980 and has extended it four times since then. In the near term, SSA does not plan to use such waivers extensively other than for the \$1-for-\$2 demonstrations (see below). In the longer term, because SSA has no specific pipeline of projects, CBO estimates spending on such projects of about \$5 million a year, a typical level for the 1990–2002 period (adjusted for inflation).

Disability Insurance (DI) beneficiaries face limits on their earnings. Applicants who earn more than \$800 a month (labeled substantial gainful activity, or SGA) in 2003 cannot qualify for DI; beneficiaries who make more than that for a nine-month trial work period and three-month grace period lose their entire check, although they retain Medicare and some other privileges. The 1999 law directed SSA to conduct demonstrations in which checks would be reduced by \$1 for each \$2 of earnings over certain thresholds. But that law left unclear how the projects would be funded. H.R. 743 clarifies that SSA would pay benefits from the trust fund and other costs for the demonstrations from its appropriation for administrative expenses.

Permission to Operate Divided Retirement Systems. Under section 218 of the Social Security Act, 21 states are allowed to operate retirement systems in which some but not all employees are covered under Social Security. In divided systems, new employees must pay Social Security tax, but employees already on the payroll may choose their coverage. H.R. 743 would extend that to all states.

A planned merger of two Louisville-area fire and police departments spurs this provision. That merger involves about 1,300 employees. CBO assumes that 200 of them would choose Social Security, and 60 or so new hires each year would add to their ranks.

Extra Social Security taxes would grow from \$1 million in 2004 to \$5 million in 2013. Workers who switch coverage can avoid or soften the GPO and the WEP. Only a few of the newly covered employees, though, would qualify for Social Security in the next 10 years, and CBO estimates extra benefits of \$1 million in 2013 (with effects of less than \$500,000 a year before then).

Extending divided-retirement authority to all states would avoid the need for piecemeal legislation in the future. CBO and SSA have not found widespread interest elsewhere, although isolated situations like Louisville's may occur. Noncovered states have resisted mandatory coverage, and no state has been added to the divided-retirement list since 1977. (In fact, Congress acted in 1983 to bar states that already had coverage agreements from ending them.) Therefore, CBO assumes negligible effects aside from the Louisville merger.

60-month Employment Requirement for Exemption from Government Pension Offset. H.R. 743 would limit a tactic that some public employees are using to skirt the GPO. The GPO applies to state and local retirees whose last day of employment under their pension plan was not covered under Social Security. The General Accounting Office reports that some workers discovered that by switching jobs for a short time—sometimes just one day—they can avoid a lifetime of GPO-related reductions. Specifically, GAO found 4,800 such transfers through June 2002; nearly all were in Texas. H.R. 743 would replace the “last-day” rule with a 60-month requirement—the same rule that applies to federal civil servants.

CBO had to estimate how the job-switching detected by GAO might evolve over time. Of the 4,800 transfers that GAO found, 3,500 occurred in 2002 alone, where they amounted to a quarter of retirements in the Teachers' Retirement System of Texas. GAO found only a handful of cases outside Texas but voiced concern that the practice would spread.

To gauge that possibility, CBO looked at retirement plans in other states with large noncovered sectors. CBO concluded that conditions in Texas are uniquely favorable to “last-day” switches. Texas combines a huge noncovered sector, a small covered sector, and a statewide plan that recognizes service in both. Elsewhere, employees who sought a covered job would have to change occupations (for example, from law enforcement to teacher) and give up some advantages of their original plan; in some states, such as Ohio and Massachusetts, no covered positions exist. California, with its mix of covered and noncovered jurisdictions, bears the closest resemblance to Texas but has a much smaller noncovered sector and thus fewer employees with an incentive to switch. If the “last-day” rule remains intact, states may face pressure from employees to amend their plans to accommodate such transfers. But amending a plan, especially when the state legislature must approve, is complex and time-consuming.

Under current law, CBO assumes that annual transfers spurred by the “last-day” rule will climb to 7,000 in 2004—twice the number in 2002, enough to accommodate further growth in Texas (where the practice clearly had not peaked) and some spillover to other states. Under H.R. 743, significant savings in Social Security would follow in about seven years. That lag stems from the programs' contrasting rules for eligibility: a typical retiree under the

Texas teachers' plan qualifies for a pension at age 55 and (if the GPO does not erase it) for Social Security at age 62. Thus, the first batch of 7,000 annuitants who retire in calendar 2004 would reach 62 in 2011. Spouses and widow(er)s affected by the GPO in December 2002 saw their Social Security reduced by an average of \$325 and \$505, respectively, or about \$400 overall. Adjusting those figures for inflation and for the age and sex of the affected group led CBO to estimate those 7,000 would lose an average of \$475, or \$4 million in December 2011. By December 2013, three cohorts of retirees push the monthly savings up to \$10 million; savings in fiscal year 2013 equal \$80 million.

Real-life cases would be more varied than these simple examples. Some annuitants retire after 55 (and reach 62 years old before 2011); some are widowed (and qualify for Social Security at age 60, not at age 62); and others must wait for a younger spouse to reach 62 years old. But these typical cases illustrate why CBO estimates small savings through 2010 and rapidly growing amounts after that.

Military Wage Credits. The original Social Security Act of 1935 did not cover members of the armed services. The 1950 Act provided them with free wage credits of \$160 a month for 1940 through 1947. Later acts kept those "deemed" credits even after Social Security began to cover members' basic pay in 1956. The 1967 amendments set deemed credits at \$300 a quarter, where they remained until 2002. The credits were an ad hoc way to acknowledge the noncash allowances—for food, housing, and so forth—that supplemented basic pay. Until 1983, the services reimbursed Social Security intermittently for the estimated cost of the resulting benefits. The Congress then amended the law to require annual payments, which amounted to about \$300 million a year in the 1980s and 1990s—about \$10 million annually from small agencies (the Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration) and the rest from the Department of Defense.

The Congress repealed deemed military credits in the 2002 defense appropriation bill. By then, however, the Defense Department had failed to pay amounts owed for 2000 and 2001. (The smaller agencies had kept up their contributions.)

H.R. 743 would transfer \$903 million—the Social Security actuaries' estimate of arrears plus interest—from the Treasury to the trust funds. Intragovernmental transfers do not affect total outlays or the deficit. Here, however, they would have one peculiar effect: the entire \$903 million payment would count as an on-budget outlay, as would the receipt by Hospital Insurance (\$173 million), but the rest (\$730 million) would be credited to Social Security as an off budget receipt.

Other Provisions Affecting Social Security. H.R. 743 would broaden the Work Opportunity Tax Credit to cover people who use a ticket for vocational rehabilitation (VR) under the 1999 law. That credit, which expires after December 2003, allows employers to subtract up to 40 percent of the first \$6,000 of wages from income tax when they hire members of targeted groups. People referred by state VR agencies are one such group; H.R. 743 would add DI and SSI beneficiaries who choose other VR providers, such as private firms or nonprofit organizations. The first tickets were distributed

in 2002 and nationwide implementation will take three years. The Joint Committee on Taxation estimates that broadening eligibility for the tax credit would reduce revenues by \$2 million in 2004.

Title IV would expand eligibility for widows' and widowers' benefits in narrow circumstances. To collect Social Security on a deceased worker's record, a widow or widower must either have been married to the worker for nine months or be actively caring for the worker's child. Lawmakers recently learned about an unusual case in which a worker could not marry his longtime companion because state law forbade him from divorcing his wife, who was in a mental institution. When his wife's death finally permitted him to remarry, he was already terminally ill and died a few months later. H.R. 743 would waive the duration-of-marriage requirement in those rare circumstances. Only one such case has come to light and CBO expects that the provision would have little cost.

Increase Resource Limits in SSI H.R. 743 would increase the amount of countable resources that an individual or couple may own and still qualify for SSI. Under current law, to be eligible for SSI, an individual can have countable resources valued at up to \$2,000, while couples can have resources of up to \$3,000. (Besides the applicant's own resources, SSA counts resources belonging to others in some situations—to parents of disabled children, and to sponsors of immigrants.) Those ceilings have not changed since 1989. Countable resources include cash, liquid assets, and real or personal property that could be converted to cash. Some items—including the value of a primary residence, an automobile, medical equipment, and certain household goods—are not counted. Resources are only used to determine whether someone is eligible for SSI; they do not determine benefit amounts.

The legislation would increase the resource limits to \$3,000 for individuals and \$4,500 for couples beginning in January 2004. After 2004, the limits would rise by the annual cost-of-living adjustment granted to SSI recipients. By increasing the resource limits, the act would allow more people to become eligible for the program and reduce the amount of time it takes some applicants to "spend down" their assets to become eligible. It also would affect some current beneficiaries who lose benefits, either temporarily or permanently, when their countable resources grow.

CBO estimates the provision would gradually increase SSI enrollment up to about 18,000 additional people in 2006 and about 21,000 in 2013. CBO based its estimate on information from SSA about the characteristics of applicants and beneficiaries who would be affected and assumptions about how long the current limits bar them from the program. Applicants who are rejected for excess resources are older, on average, than the current SSI caseload; are more likely to have other income that would trim their SSI benefit; and, CBO assumes, might prevail on a second or third application even under current law as they draw down their resources for living expenses.

In most states, SSI eligibility automatically confers entitlement to Medicaid benefits. For these predominantly adult cases, CBO assumes that the average Medicaid cost would greatly exceed the SSI benefit. We estimate that H.R. 743 would increase spending on SSI by \$6 million in 2004, \$78 million over the 2004–2008 period, and \$198 million over the 2004–2013 period. We also estimate that it

would increase federal Medicaid outlays by \$45 million in 2004, \$870 million over the 2004–2008 period, and \$2.9 billion over the 2004–2013 period.

Part of that effect comes from additional participants in the Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) programs, who do not necessarily receive SSI. Under those programs, Medicaid pays some or all of the premiums and cost-sharing under Parts A and B of Medicare for enrollees who have incomes below 120 percent of the federal poverty level and countable assets up to two times the resource limit used in the SSI program. By raising and indexing the resource limit in SSI, H.R. 743 would set that threshold at about \$7,500 in 2013, compared with \$4,000 under current law.

Based on current participation in the programs, CBO estimates that the act would eventually increase the number of QMB and SLMB beneficiaries by about 225,000. That effect would occur gradually, with most of the cost in the second half of CBO's 10-year horizon. The extra participants would increase federal Medicaid spending for the QMB and SLMB programs by \$10 million in 2004, \$380 million over the 2004–2008 period, and \$1.5 billion over the 2004–2013 period. (Those amounts are a subset of the Medicaid totals cited above.)

CBO estimates that additional participation in the QMB program would increase Medicare spending as well. That program covers all Medicare cost-sharing for enrollees with incomes below the federal poverty level and limited assets. CBO anticipates that new QMB participants would use more Medicare services than under current law because they would no longer have to pay anything for them. As a result, CBO estimates extra Medicare spending (net of premiums) of \$5 million in 2004, \$195 million over the 2004–2008 period, and \$725 million over the 2004–2013 period.

Review of State Agency SSI Awards. H.R. 743 would require SSA to conduct reviews of initial decisions to award SSI benefits to certain disabled adults. The legislation would direct SSA to review at least 25 percent of all favorable adult-disability determinations made by the states' Disability Determination Service (DDS) offices in 2004. The agency would have to review at least half of the adult-disability awards made by DDS offices in 2005 and beyond.

CBO anticipates that state DDS offices will approve between 350,000 and 400,000 SSI claims from disabled adults annually between 2004 and 2013. Based on similar reviews in the Social Security Disability Insurance program, CBO projects that by 2013 the extra reviews would ultimately overturn more than 20,000 of those awards, leading to lower outlays for SSI and Medicaid. CBO estimates that the provision would reduce SSI benefits by \$3 million and Medicaid outlays by \$4 million in 2004. Over the 2004–2013 period, CBO estimates the savings at \$425 million in SSI and \$1.1 billion in Medicaid.

Other SSI Provisions. H.R. 743 would make a limited exception to SSI's retrospective monthly accounting when a claimant has certain nonrecurring income. An SSI check may fluctuate depending on a recipient's other income. Retrospective monthly accounting is used to determine those benefit amounts. When someone first qualifies for SSI, the amount of countable income in the first month determines benefits for the first three months of eligibility.

Thus, nonrecurring income in that first month can shrink benefits in the next two months. H.R. 743 would permit SSA to exclude certain nonrecurring income when calculating SSI benefits for the second and third (but not the first) month. Based on data provided by SSA, CBO estimates the provision would increase benefits by an average of \$160 per month for around 1,000 beneficiaries in 2004. Although costs in any single year would not reach \$500,000, the provision would increase outlays by a total of \$1 million over the 2004–2008 period, and \$2 million over the 2004–2013 period.

H.R. 743 also would enable some blind or disabled children of U.S. military personnel stationed overseas to receive SSI. Under current law, those children may continue to collect SSI only if they were already eligible when the family moved overseas. The legislation would allow them to qualify overseas even if they did not previously receive SSI. Based on information from SSA, CBO expects the provision would add fewer than a dozen children, some of them infants born overseas, to the SSI rolls at an average benefit of about \$500 a month. Extra costs would not reach \$500,000 in any year but would total about \$1 million over the 2004–2013 period.

Finally, H.R. 743 proposes several liberalizations to the SSI program that, in CBO's estimate, each would cost less than \$500,000 over the 2004–2013 period. They include:

- Expanding the exclusions for certain infrequent or irregular income;
- Making the 9-month resource exclusion periods uniform;
- Modifying the dedicated account requirement;
- Eliminating certain restrictions on student earned income;
- Excluding AmeriCorps and other volunteer benefits from income;
- Changing the treatment of education-related income and resources; and
- Altering the monthly treatment of uniformed service compensation.

Spending Subject to Appropriation

H.R. 743 would increase SSA's administrative cost by increasing standards for certain program integrity activities and by slightly increasing program caseloads. These costs are subject to annual appropriation and are thus classified as discretionary spending. CBO estimates added costs would be \$19 million in 2004, \$113 million over the 2004–2008 period and \$240 million through 2013. About two-thirds would be for SSI administration with the remainder for the OASDI program.

Title I. H.R. 743 would require SSA to monitor representative payees more stringently. Currently, SSA conducts on-site inspections every three years for high-volume payees—organizations serving more than 100 beneficiaries and individuals (such as attorneys) serving more than 20; the legislation would lower those thresholds to 50 and 15 beneficiaries, respectively. That would permanently add about \$4 million a year to SSA's costs. H.R. 743 also would require SSA to enforce bonding and licensing requirements, redirect benefit checks when a representative payee fails to file an annual accounting, and compensate beneficiaries for any funds misused by organizational payees since 1995. Those costs would be largest in the early years of implementation, pushing SSA's required funding

for title I to an estimated \$8 million in 2004 and \$6 million in 2005. Social Security and SSI would each account for about half of those amounts.

Title II. Provisions of title II to bar fugitives from receiving Social Security benefits and to enforce the GPO and WEP using IRS information also would entail administrative costs, especially in the early phases. Obtaining the IRS data is just the first step; SSA must match to its records and follow-up potential cases manually, at an estimated cost of \$250 each. Some investigations will lead nowhere; some people will be exempt because they collect a survivor payment (not a retirement annuity) from state or local government, or qualified before the GPO or WEP took effect. CBO assumes that SSA will track down 3 cases for every 2 ultimately affected. Once SSA finds them, however, annual costs are more modest, chiefly to verify the pension amount in case of cost-of-living adjustments or other changes. CBO assumes that using 1099-R reports of pension income to help enforce the GPO and WEP provisions would ultimately boost the number of GPO and WEP cases by about 4 percent, or 60,000 people by 2013. To get there, CBO assumes that SSA would detect more than 300,000 apparent matches, weed out 200,000 based on information already in its records, and investigate the remaining 100,000 intensively. Costs would peak at \$8 million in 2006, as SSA uses the first batch of IRS information, before subsiding. Enforcing the fugitive provision would cost SSA \$1 million to \$2 million annually, chiefly because SSA already screens fugitive lists to enforce the ban in SSI.

Title IV. Title IV would increase SSA's costs of administering the SSI program. Lifting the resource limit would increase the number of beneficiaries. Most of the new beneficiaries, however, would apply and be rejected under current law; changing these denials to allowances would not involve significant costs. The new reviews of state agency allowances—roughly 125,000 cases annually when fully phased-in—would cost \$145 million over the 2004–2013 period. On top of the reviews, which are estimated to cost about \$100 each (in 2004 dollars), SSA estimates some additional start-up costs in the first year. Thus, the estimated annual costs would rise from \$9 million in 2004 to \$17 million in 2013.

Intergovernmental and private-sector impact: The Joint Committee on Taxation has reviewed the tax provisions of the act and determined that those provisions contain no intergovernmental or private-sector mandates as defined in UMRA.

Section 4 of UMRA excludes from that law's requirements any provision in a bill or act that relates to the OASDI programs under title II of the Social Security Act. The provisions of H.R. 743 that amend title II of the Social Security Act fall within that exclusion.

Other provisions of H.R. 743, however, contain mandates as defined in UMRA. The act would preempt state laws that might otherwise prohibit the exchange of information between SSA and state and local law enforcement officers conducting background checks on representative payees. That preemption could limit the application of state privacy laws in some cases, but it would impose no duty on state or local governments that would result in additional spending.

H.R. 743 also would exempt the Railroad Retirement Investment Trust from state and local taxes. The Trust was created in 2002 to

invest most of the funds of the government's Railroad Retirement program. CBO has found no state that has attempted to collect or plans to collect any type of tax from the Trust. Consequently, CBO estimates that this preemption of state taxing authority, while an intergovernmental mandate as defined in UMRA, would result in no significant revenue losses to state or local governments, and any potential losses would be far below the threshold established in UMRA (\$60 million in 2004, adjusted annually for inflation).

Finally, the act would alter income and eligibility requirements in the SSI program. Because SSI beneficiaries are eligible for Medicaid, CBO estimates that state spending for Medicaid would increase by about \$2.2 billion over the 2004–2013 period. However, states have significant flexibility in Medicaid to alter their programmatic responsibilities, so this additional spending would not be the result of a mandate as defined in UMRA.

H.R. 743 contains one private-sector mandate as defined in UMRA. It would prohibit private entities from charging a fee for products and services that are available for free from SSA, unless they disclose that alternative when they make the offer. CBO estimates that the resulting cost to the private sector would not exceed the threshold established in UMRA (\$120 million in 2004, adjusted annually for inflation).

Previous CBO Estimate: On March 20, 2003, CBO transmitted a cost estimate for H.R. 743 as ordered reported by the House Committee on Ways and Means on March 13, 2003. We estimated that version of H.R. 743 would lead to a combined \$655 million in direct spending reductions and revenue increases over the 2004–2013 period. This version totals \$594 million over the same period. Provisions that differ significantly between the two versions, and their effects on the 10-year totals, are:

- The nationwide study of representative payees (at a cost of \$18 million);
- A provision of the House version, dropped by the Senate, that would temporarily extend the attorney-fee program to SSI (forgoing receipts of \$26 million);
- New provisions to enforce the GPO and WEP using IRS information (saving \$2.1 billion) and to allow additional cross-program recovery (saving \$249 million);
- Permanent authority for SSA to grant waivers in demonstration projects involving Social Security disability beneficiaries (at an estimated cost of \$42 million); and
- All of the SSI provisions in title IV, subtitle D of the Senate version (net cost of \$2.3 billion).

Estimate prepared by: Federal Spending: Social Security-Kathy Ruffing; SSI-Geoffrey Gerhardt; Medicaid Eric Rollins.

Federal revenues. Edward Harris and Annabelle Bartsch; Impact on state, local, and tribal governments: Leo Lex; Impact on the private sector: Ralph Smith.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning

the votes of the Committee on Finance in consideration of the bill, H.R. 743.

A. MOTION TO REPORT THE BILL

The bill, H.R. 743, as amended, was ordered favorably reported by a voice vote (with a quorum being present).

V. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the legislation will not significantly increase regulation of any individuals or businesses; will not adversely impact the personal privacy of individuals; and will result in no significant additional paperwork.

For further discussion of the impact of the bill on tax complexity, see section C. below.

B. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

C. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

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

In the opinion of the Committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate, relating to changes in existing law made by the bill reported by the Committee.

VII. ADDITIONAL VIEWS

I write to express my concerns about an effect of a proposal in Section 210 of this bill that came to light after the Committee ordered the bill reported. I am concerned that the inclusion in this bill of a proposal from the President's budget could require some retirees of State and local governments to repay the Federal government thousands or tens of thousands of dollars of Social Security benefit overpayments. I plan to work to change this provision as the bill moves through the legislative process to prevent this outcome.

Under current law, some State and local government workers do not participate in the Social Security program, but instead are covered by separate pensions administered by these governments. At some point these workers may also receive Social Security benefits as a widow, widower, or spouse of a worker who did participate in Social Security. Under the Government Pension Offset (GPO)—a longstanding provision of the Social Security program—these widow's, widower's, and spousal monthly Social Security benefits are reduced by an amount equal to two-thirds of the monthly amounts of the State and local government pensions they receive. The Social Security Administration is not aware, however, that some of these widows, widowers, and spouses are receiving State and local government pensions. Therefore, the GPO is not applied to the Social Security benefits of the individuals in these cases.

Pension-issuing entities—including State and local governments' pension-issuing agencies—must submit to the IRS each year Form 1099R, which indicate the amount of pension payments issued to retirees. The President's budget included a proposal to require these State and local government agencies to also include indicators on these Form 1099R that denote whether or not these pension recipients were covered by Social Security as workers. The proposal also included a provision that would allow the IRS to share this Form 1099R information with the Social Security Administration (SSA) on a confidential basis. SSA would use this information to help determine whether the current widow's, widower's, or spousal Social Security benefits of these pension recipients would be subject to the GPO. If so, these monthly Social Security benefits of current beneficiaries would henceforth be reduced or eliminated according to current law. In addition, the monthly benefits of all future beneficiaries would also be reduced or eliminated. Moreover, if the information on these Form 1099Rs had been known by SSA at the time that current Social Security beneficiaries first began drawing benefits, the current beneficiaries would have received smaller benefits than what they actually received in each of the months dating back to their first monthly benefit. The total of such "overpayments" could amount to thousands or tens of thousands of dollars.

Subsequent to the time that H.R. 743 was reported by the Senate Finance Committee, it became apparent, however, that there were two different views of how these overpayments could be treated. One view of the language in the "Chairman's Mark" would result in SSA working with the individual to have him or her repay these overpayments over time. Another view of the language in the "Chairman's Mark" would only result in prospective benefit payments being reduced or eliminated.

By allowing SSA to recover these overpayments, current beneficiaries would face the necessity of repayment just as their monthly Social Security benefits would be eliminated or significantly reduced by the GPO. This could leave these beneficiaries—including widows and widowers—in severe financial straits. This is unacceptable to me. Therefore, I will work to see that the language of this provision is changed as it moves through the legislative process, so that the receipt of the information contained in the modified Form 1099Rs by SSA would not cause these Social Security beneficiaries to have to repay any overpayments.

MAX BAUCUS

○

to Taxes on Income, signed at Washington on November 6, 2003, together with a Protocol and an exchange of notes (the "Convention"). I also transmit, for the information of the Senate, the report of the Department of State concerning the Convention.

This Convention would replace the Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Tokyo on March 8, 1971.

This Convention, which is similar to tax treaties between the United States and other developed nations, provides rules specifying the circumstances under which income that arises in one of the countries and is derived by residents of the other country may be taxed by the country in which income arises, providing for maximum source-country withholding tax rates that may be applied to various types of income and providing for protection from double taxation of income. The proposed Convention also provides rules designed to ensure that the benefits of the Convention are not available to persons that are engaged in treaty shopping. Also included in the proposed Convention are rules necessary for administering the Convention.

I recommend that the Senate give early and favorable consideration to this Convention, and that the Senate give its advice and consent to the ratification of the Convention.

GEORGE W. BUSH.

THE WHITE HOUSE, December 9, 2003.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader and pursuant to Public Law 108-79, appoint the following individual: Guastavus Adolphus Puryear, IV, of Tennessee, to the National Prison Rape Reduction Commission for a term of 2 years.

The Chair, on behalf of the Democratic Leader, after consultation with the Majority Leader and pursuant to Public Law 108-79, appoints the following individuals to the National Prison Rape Reduction Commission: James Evan Aiken, of North Carolina, and Cindy Struckman-Johnson of South Dakota.

The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108-132, appoints the following individuals to the Commission on Review of Overseas Military Facility Structure of the United States: Al Cornella, of South Dakota, and James A Thomson, of California.

AUTHORIZING COMMITTEES TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment,

committees be authorized to report legislative and executive matters on Friday, January 9, 2004, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING APPOINTMENTS BY THE PRESIDENT OF THE SENATE, THE PRESIDENT OF THE SENATE PRO TEMPORE, AND THE MAJORITY AND MINORITY LEADERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or inter-parliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE MAJORITY LEADER TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING THE SPECIAL POSTAGE STAMP FOR BREAST CANCER RESEARCH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2000, introduced earlier today by Senators FEINSTEIN and HUTCHISON.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2000) to extend the special postage stamp for breast cancer research for 2 years.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2000) was read the third time and passed, as follows:

S. 2000

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

SECTION 1. 2-YEAR EXTENSION OF POSTAGE STAMP FOR BREAST CANCER RESEARCH.

Section 414(h) of title 39, United States Code, is amended by striking "2003" and inserting "2005".

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 349, H.R. 743.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 743

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

[(a) SHORT TITLE.- This Act may be cited as the "Social Security Protection Act of 2003".

[(b) TABLE OF CONTENTS.- The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I- PROTECTION OF BENEFICIARIES

Subtitle A- Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B- Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II- PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
- Sec. 209. Authority for judicial orders of restitution.

TITLE III- ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV- MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A- Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B- Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C- Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.

[TITLE I—PROTECTION OF BENEFICIARIES

[Subtitle A—Representative Payees

[SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

[(a) TITLE II AMENDMENTS.-

[(1) REISSUANCE OF BENEFITS.- Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that-

[(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

[(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

[(2) MISUSE OF BENEFITS DEFINED.- Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

[(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

[(b) TITLE VIII AMENDMENTS.-

[(1) REISSUANCE OF BENEFITS.- Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: "In any case in which a representative payee that-

[(A) is not an individual; or

[(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2)."

[(2) MISUSE OF BENEFITS DEFINED.- Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

[(j) MISUSE OF BENEFITS.- For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

[(3) TECHNICAL AMENDMENT.- Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

[(c) TITLE XVI AMENDMENTS.-

[(1) REISSUANCE OF BENEFITS.- Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that-

[(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

[(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

[(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.- Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended-

[(A) in paragraph (12), by striking "and" at the end;

[(B) in paragraph (13), by striking the period and inserting "; and"; and

[(C) by inserting after paragraph (13) the following new paragraph:

[(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

[(3) MISUSE OF BENEFITS DEFINED.- Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

[(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

[(d) EFFECTIVE DATE.- The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

[SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

[(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENT ORGANIZATIONAL REPRESENTATIVE PAYEES.-

[(1) TITLE II AMENDMENTS.- Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended-

[(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

[(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

[(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative

payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

[(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

["(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.".]

[(2) TITLE XVI AMENDMENTS.— Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

[(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

[(B) in subparagraph (D)(ii)—

[(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

[(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

[(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

[(C) by adding at the end the following new subparagraph:

[(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.".]

[(3) EFFECTIVE DATE.— The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

[(b) PERIODIC ONSITE REVIEW.—

[(1) TITLE II AMENDMENT.— Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

["(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

["(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

["(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

["(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

["(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

["(i) the number of such reviews;

["(ii) the results of such reviews;

["(iii) the number of cases in which the representative payee was changed and why;

["(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

["(v) the number of cases discovered in which there was a misuse of funds;

["(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

["(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

["(viii) such other information as the Commissioner deems appropriate.".]

[(2) TITLE VIII AMENDMENT.— Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

[(k) PERIODIC ONSITE REVIEW.— (1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

["(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

["(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

["(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

["(A) the number of such reviews;

["(B) the results of such reviews;

["(C) the number of cases in which the representative payee was changed and why;

["(D) the number of cases involving the exercise of expedited, targeted oversight of the

representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

["(E) the number of cases discovered in which there was a misuse of funds;

["(F) how any such cases of misuse of funds were dealt with by the Commissioner;

["(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

["(H) such other information as the Commissioner deems appropriate.".]

[(3) TITLE XVI AMENDMENT.— Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

["(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

["(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

["(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

["(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

["(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

["(I) the number of the reviews;

["(II) the results of such reviews;

["(III) the number of cases in which the representative payee was changed and why;

["(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

["(V) the number of cases discovered in which there was a misuse of funds;

["(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

["(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

["(VIII) such other information as the Commissioner deems appropriate.".]

(SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

[(a) TITLE II AMENDMENTS.— Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

[(1) in subparagraph (B)(i)—

[(A) by striking "and" at the end of subclause (II);

[(B) by redesignating subclause (IV) as subclause (VI); and

[(C) by inserting after subclause (III) the following new subclauses:

["(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.

["(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

[(2) in subparagraph (B), by adding at the end the following new clause:

["(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that-

["(I) such person is described in section 202(x)(1)(A)(iv),

["(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

["(III) the location or apprehension of such person is within the officer's official duties.";

[(3) in subparagraph (C)(i)(II), by striking "subparagraph (B)(i)(IV)," and inserting "subparagraph (B)(i)(VI)" and striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(ii)(VI)"; and

[(4) in subparagraph (C)(i)-

[(A) by striking "or" at the end of subclause (II);

[(B) by striking the period at the end of subclause (III) and inserting a comma; and

[(C) by adding at the end the following new subclauses:

["(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

["(V) such person is person described in section 202(x)(1)(A)(iv).";

[(b) TITLE VIII AMENDMENTS.- Section 807 of such Act (42 U.S.C. 1007) is amended-

[(1) in subsection (b)(2)-

[(A) by striking "and" at the end of subparagraph (C);

[(B) by redesignating subparagraph (D) as subparagraph (F); and

[(C) by inserting after subparagraph (C) the following new subparagraphs:

["(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

["(E) obtain information concerning whether such person is a person described in section 804(a)(2); and";

[(2) in subsection (b), by adding at the end 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 (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commis-

sioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that-

["(A) such person is described in section 804(a)(2).

["(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

["(C) the location or apprehension of such person is within the officer's official duties."; and

[(3) in subsection (d)(1)-

[(A) by striking "or" at the end of subparagraph (B);

[(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

[(C) by adding at the end the following new subparagraphs:

["(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

["(E) such person is a person described in section 804(a)(2).";

[(c) TITLE XVI AMENDMENTS.- Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended-

[(1) in clause (ii)-

[(A) by striking "and" at the end of subclause (III);

[(B) by redesignating subclause (IV) as subclause (VI); and

[(C) by inserting after subclause (III) the following new subclauses:

["(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

["(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and";

[(2) in clause (iii)(II)-

[(A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and

[(B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)";

[(3) in clause (iii)-

[(A) by striking "or" at the end of subclause (II);

[(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

[(C) by adding at the end the following new subclauses:

["(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

["(V) such person is a person described in section 1611(e)(4)(A)."; and

[(4) by adding at the end the following new clause:

["(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that-

["(I) such person is described in section 1611(e)(4)(A).

["(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

["(III) the location or apprehension of such person is within the officer's official duties.";

[(d) EFFECTIVE DATE.- The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

[(e) REPORT TO THE CONGRESS.- The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

[SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

[(a) TITLE II AMENDMENTS.- Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended-

[(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

[(2) in the second sentence, by striking "The Secretary" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner";

[(b) TITLE XVI AMENDMENTS.- Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended-

[(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

[(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner";

[(c) EFFECTIVE DATE.- The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

[SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

[(a) TITLE II AMENDMENTS.- Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further-

[(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

[(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

[(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

[(4) by inserting after paragraph (6) the following new paragraph:

["(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

["(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

[(b) TITLE VIII AMENDMENT.- Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

["(I) LIABILITY FOR MISUSED AMOUNTS.-

["(1) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

["(2) LIMITATION.- The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

[(c) TITLE XVI AMENDMENTS.- Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further-

[(1) in subparagraph (G)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

[(2) by striking subparagraph (H) and inserting the following:

["(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related

laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

["(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

[(d) EFFECTIVE DATE.- The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

[SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

[(a) TITLE II AMENDMENTS.- Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended-

[(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

[(2) by inserting after subparagraph (D) the following new subparagraph:

["(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

[(b) TITLE VIII AMENDMENTS.- Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended-

[(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

[(2) by inserting after paragraph (2) the following new paragraph:

["(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.- In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

[(c) TITLE XVI AMENDMENT.- Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

["(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

[(d) EFFECTIVE DATE.- The amendment made by this section shall take effect 180

days after the date of the enactment of this Act.

[Subtitle B—Enforcement

[SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

[(a) IN GENERAL.- Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

["(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

[(b) EFFECTIVE DATE.- The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

[TITLE II—PROGRAM PROTECTIONS

[SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

[(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.-

[(1) CIVIL PENALTIES.- Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended-

[(A) by striking "who" in the first sentence and inserting "who-";

[(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

["(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

["(B) makes such a statement or representation for such use with knowing disregard for the truth, or

["(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to,";

[(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

[(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

[(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

[(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.- Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended-

[(A) by striking "who" the first place it appears and inserting "who- "; and

[(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

["(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading.

["(2) makes such a statement or representation for such use with knowing disregard for the truth, or

["(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

shall be subject to.".

[(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.- Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section:".

[(c) CONFORMING AMENDMENTS.-

[(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

[(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions".

[(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

[(d) EFFECTIVE DATE.- The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

[Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

[(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

[(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

[(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

[(4) by inserting after paragraph (1)(A)(iii) the following:

["(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

["(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

[(5) in paragraph (3), by adding at the end the following new subparagraph:

["(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that-

["(i) the beneficiary-

["(I) is described in clause (iv) or (v) of paragraph (1)(A); and

["(II) has information that is necessary for the officer to conduct the officer's official duties; and

["(ii) the location or apprehension of the beneficiary is within the officer's official duties.".

[(b) REGULATIONS.- Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

[(c) EFFECTIVE DATE.- The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

[(a) IN GENERAL.- Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended-

[(1) in subsection (a), by adding at the end the following new paragraph:

["(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that-

["(i) explains that the product or service is available free of charge from the Social Security Administration, and

["(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

["(B) Subparagraph (A) shall not apply to any offer-

["(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

["(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

[(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

[(b) EFFECTIVE DATE.- The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

[Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following:

"Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.".

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

[Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

["ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

["SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the

Social Security Administration, or to a member of the family of such an officer or employee or contractor."

[SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.]

[(a) IN GENERAL.- Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended-

[(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," by striking "or 'Medicaid,'" and inserting "'Medicaid,' 'Death Benefits Update,' 'Federal Benefit Information,' 'Funeral Expenses,' or 'Final Supplemental Plan,'" and by inserting "'CMS,'" after "'HCFA,'";

[(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

[(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

[(b) EFFECTIVE DATE.- The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

[SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.]

[(a) IN GENERAL.- Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

[(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by-

[(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

[(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

[(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized, no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment."

[(b) EFFECTIVE DATE.- The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

[SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.]

[(a) AMENDMENTS TO TITLE II.- Section 208 of the Social Security Act (42 U.S.C. 408) is amended-

[(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

[(2) by inserting after subsection (a) the following new subsection:

[(b)(1) Any Federal court, when sentencing a defendant convicted of an offense

under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

[(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

[(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor."

[(b) AMENDMENTS TO TITLE VIII.- Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended-

[(1) by striking "(i) RESTITUTION.- In any case where" and inserting the following:

[(i) RESTITUTION.-

[(1) IN GENERAL.- In any case where"; and

[(2) by adding at the end the following new paragraph:

[(2) COURT ORDER FOR RESTITUTION.-

[(A) IN GENERAL.- Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

[(B) RELATED PROVISIONS.- Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

[(C) STATED REASONS FOR NOT ORDERING RESTITUTION.- If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor."

[(c) AMENDMENTS TO TITLE XVI.- Section 1632 of such Act (42 U.S.C. 1383a) is amended-

[(1) by redesignating subsection (b) as subsection (c); and

[(2) by inserting after subsection (a) the following new subsection:

[(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

[(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

[(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor."

[(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.- Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

[(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

[(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received

in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts."

[(e) EFFECTIVE DATE.- The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

[TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS]

[SEC. 301. CAP ON ATTORNEY ASSESSMENTS.]

[(a) IN GENERAL.- Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended-

[(1) by inserting ", except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

[(2) by adding at the end the following new sentence: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75."

[(b) EFFECTIVE DATE.- The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

[SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.]

[(a) IN GENERAL.- Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended-

[(1) in subparagraph (A), in the matter preceding clause (i)-

[(A) by striking "section 206(a)" and inserting "section 206";

[(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

[(C) by striking "paragraph (2) thereof" and inserting "such section";

[(2) in subparagraph (A)(i), by striking "in subparagraphs (A)(i)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)", and by striking "and" at the end;

[(3) by striking subparagraph (A)(ii) and inserting the following:

[(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase "section 1631(a)(7)(A) or the requirements of due process of law" for the phrase "subsection (g) or (h) of section 223";

[(iii) by substituting, in subsection (a)(2)(C)(i), the phrase "under title II" for the phrase "under title XVI";

[(iv) by substituting, in subsection (b)(1)(A), the phrase "pay the amount of such fee" for the phrase "certify the amount of

such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

["(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a)'; and

[(4) by striking subparagraph (B) and inserting the following new subparagraphs:

["(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of-

["(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

["(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

["(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

["(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

["(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

["(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

["(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

["(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

["(vi) The assessments authorized under this subparagraph shall be collected and

available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.".

[(b) EFFECTIVE DATE.-

[(1) IN GENERAL.- The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

[(2) SUNSET.- Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

[(c) STUDY REGARDING FEE-WITHOLDING FOR NON-ATTORNEY REPRESENTATIVES.-

[(1) STUDY.- As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

[(2) MATTERS TO BE STUDIED.- In conducting the study under this subsection, the Comptroller General shall-

[(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to-

[(i) their training, qualifications, and competency,

[(ii) the type and quality of services provided, and

[(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

[(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

[(3) REPORT.- Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

[TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

[Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

[SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

[Section 234 of the Social Security Act (42 U.S.C. 434) is amended-

[(1) in the first sentence of subsection (c), by striking "conducted under subsection (a)" and inserting "initiated under subsection (a) on or before December 17, 2004"; and

[(2) in subsection (d)(2), by amending the first sentence to read as follows: "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.".

[SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

[Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(42 U.S.C. 401 et seq.)" and inserting "(42 U.S.C. 401 et seq.)" and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.".

[SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

[Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

["(f) EXPENDITURES.- Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.".

[SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

[(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.-

[(1) IN GENERAL.- Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

["(2) DISABLED BENEFICIARY.- The term 'disabled beneficiary' means an individual-

["(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

["(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

["(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

["(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.".

[(2) EFFECTIVE DATE.- The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

[(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.-

[(1) DEFINITION OF DISABLED BENEFICIARY.- Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

["(2) DISABLED BENEFICIARY.- The term 'disabled beneficiary' means an individual-

["(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

["(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under

section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

["(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

["(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.".

[(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.- Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

[(3) EFFECTIVE DATE.- The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

[(SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

[(a) IN GENERAL.- Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973."

[(b) EFFECTIVE DATE.- The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

[Subtitle B—Miscellaneous Amendments

[(SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

[(a) IN GENERAL.- Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking "and a transcript" and inserting "and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript".

[(b) EFFECTIVE DATE.- The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

[(SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

[(a) IN GENERAL.- Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking "or (1)(E)".

[(b) EFFECTIVE DATE.- The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

[(SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

[Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

[(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

[(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

[(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

[(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

[(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

[(SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

[(a) WIDOWS.- Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended-

[(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

[(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

[(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)." before "she was married";

[(4) by inserting "(1)" after "(c)"; and

[(5) by adding at the end the following new paragraph:

["(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if-

["(A) the individual had been married prior to the individual's marriage to the surviving wife,

["(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

["(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security);

["(D) the prior wife continued to remain institutionalized up to the time of her death, and

["(E) the individual married the surviving wife within 60 days after the prior wife's death.".

[(b) WIDOWERS.- Section 216(g) of such Act (42 U.S.C. 416(g)) is amended-

[(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

[(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

[(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)." before "he was married";

[(4) by inserting "(1)" after "(g)"; and

[(5) by adding at the end the following new paragraph:

["(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if-

["(A) the individual had been married prior to the individual's marriage to the surviving husband,

["(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

["(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security).

["(D) the prior husband continued to remain institutionalized up to the time of his death, and

["(E) the individual married the surviving husband within 60 days after the prior husband's death.".

[(c) CONFORMING AMENDMENT.- Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

[(d) EFFECTIVE DATE.- The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

[(SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

[Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

[(SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

[(a) IN GENERAL.- Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky," after "Illinois".

[(b) EFFECTIVE DATE.- The amendment made by subsection (a) takes effect on January 1, 2003.

[(SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

[(a) IN GENERAL.- Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

["(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently."

[(b) EFFECTIVE DATE.- The amendment made by this section shall be effective as of January 1, 2003.

[(SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

[(a) WIFE'S INSURANCE BENEFITS.- Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

[(b) HUSBAND'S INSURANCE BENEFITS.- Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

[(c) WIDOW'S INSURANCE BENEFITS.- Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

[(d) WIDOWER'S INSURANCE BENEFITS.- Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

[(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.- Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

[(f) EFFECTIVE DATE.- The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof).

[(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

[(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted "employment" as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such "employment".

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

[Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended-

[(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

[(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

[(a) IN GENERAL.- Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting " , but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

[(b) EFFECTIVE DATE.- The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

[(a) AMENDMENT TO INTERNAL REVENUE CODE.- Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

[(b) AMENDMENT TO SOCIAL SECURITY ACT.- Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

[(c) CONFORMING AMENDMENT.- Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by

striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

[(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.- Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further-

[(1) by striking "deportation" each place it appears and inserting "removal";

[(2) by striking "deported" each place it appears and inserting "removed";

[(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

[(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

[(5) in paragraph (3)-

[(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

[(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

[(6) in the heading, by striking "Deportation" and inserting "Removal".

[(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.- Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

[(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.- Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

[(a) SOCIAL SECURITY ACT AMENDMENT.- Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions".

[(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.- Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.- This Act may be cited as the "Social Security Protection Act of 2003".

(b) TABLE OF CONTENTS.- The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I- PROTECTION OF BENEFICIARIES

Subtitle A- Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Sec. 107. Survey of use of payments by representative payees.

Subtitle B- Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II- PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

Sec. 205. Refusal to recognize certain individuals as claimant representatives.

Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

Sec. 210. Information for administration of provisions related to noncovered employment.

Sec. 211. Cross-program recovery of overpayments.

Sec. 212. Prohibition on payment of title II benefits to persons not authorized to work in the United States.

TITLE III- ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. GAO study of fee payment process for claimant representatives.

TITLE IV- MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A- Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Elimination of demonstration authority sunset date.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.

- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.
- Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.
- Subtitle B—Miscellaneous Amendments
- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Sec. 418. 60-month period of employment requirement for government pension offset exemption.
- Sec. 419. Post-1956 Military Wage Credits.
- Subtitle C—Technical Amendments
- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.
- Sec. 426. Technical amendments to the Railroad Retirement and Survivors Improvement Act of 2001.
- Subtitle D—Amendments Related to Title XVI
- Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.
- Sec. 431. Uniform 9-month resource exclusion periods.
- Sec. 432. Modification of dedicated account requirements.
- Sec. 433. Elimination of certain restrictions on the application of the student earned income exclusion.
- Sec. 434. Exclusion of Americorps and other volunteer benefits for purposes of determining supplemental security income eligibility and benefit amounts and social security disability insurance entitlement.
- Sec. 435. Exception to retrospective monthly accounting for nonrecurring income.
- Sec. 436. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.
- Sec. 437. Treatment of education-related income and resources.
- Sec. 438. Monthly treatment of uniformed service compensation.
- Sec. 439. Update of resource limits.
- Sec. 440. Review of State agency blindness and disability determinations.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.— Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) MISUSE OF BENEFITS DEFINED.— Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.— Section 807(i)(1) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2)."

(2) MISUSE OF BENEFITS DEFINED.— Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

"(j) MISUSE OF BENEFITS.— For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) TECHNICAL AMENDMENT.— Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.— Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.— Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

(3) MISUSE OF BENEFITS DEFINED.— Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.— Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent

audit on the agency which may have been performed since the previous certification."

(2) TITLE XVI AMENDMENTS.— Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following:
 "(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) EFFECTIVE DATE.— The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.— Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—
 "(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate."

(2) TITLE VIII AMENDMENT.— Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

"(k) PERIODIC ONSITE REVIEW.—

"(I) IN GENERAL.— In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

"(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

"(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

"(2) REPORT.— Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (I) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(A) the number of such reviews;

"(B) the results of such reviews;

"(C) the number of cases in which the representative payee was changed and why;

"(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(E) the number of cases discovered in which there was a misuse of funds;

"(F) how any such cases of misuse of funds were dealt with by the Commissioner;

"(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(H) such other information as the Commissioner deems appropriate."

(3) TITLE XVI AMENDMENT.— Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

"(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

"(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

"(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

"(I) the number of the reviews;

"(II) the results of such reviews;

"(III) the number of cases in which the representative payee was changed and why;

"(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(V) the number of cases discovered in which there was a misuse of funds;

"(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

"(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(VIII) such other information as the Commissioner deems appropriate."

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.— Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

"(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

(2) in subparagraph (B), by adding at the end the following:

"(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 202(x)(1)(A)(iv),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.";

(3) in subparagraph (C)(i)(II)-

(A) by striking "subparagraph (B)(i)(IV),," and inserting "subparagraph (B)(i)(VI)"; and (B) by striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(ii)(VI)"; and

(4) in subparagraph (C)(i)-

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

"(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

"(V) such person is person described in section 202(x)(1)(A)(iv)."

(b) TITLE VIII AMENDMENTS.- Section 807 of such Act (42 U.S.C. 1007) is amended-

(1) in subsection (b)(2)-

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

"(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(E) obtain information concerning whether such person is a person described in section 804(a)(2); and"

(2) in subsection (b), by adding at the end the following:

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that-

"(A) such person is described in section 804(a)(2),

"(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(C) the location or apprehension of such person is within the officer's official duties.";

(3) in subsection (d)(1)-

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

"(E) such person is a person described in section 804(a)(2)."

(c) TITLE XVI AMENDMENTS.- Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended-

(1) in clause (ii)-

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and";

(2) in clause (iii)(I)-

(A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and

(B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)";

(3) in clause (iii)-

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

"(V) such person is a person described in section 1611(e)(4)(A)."; and

(4) by adding at the end the following:

"(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that-

"(I) such person is described in section 1611(e)(4)(A),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.";

(d) EFFECTIVE DATE.- The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO CONGRESS.- The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.- Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended-

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Secretary" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner";

(b) TITLE XVI AMENDMENTS.- Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended-

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner";

(c) EFFECTIVE DATE.- The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.- Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further-

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(4) by inserting after paragraph (6) the following:

"(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(b) TITLE VIII AMENDMENT.- Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

"(1) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(II) LIABILITY FOR MISUSED AMOUNTS.-

"(I) IN GENERAL.- If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) LIMITATION.- The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(c) TITLE XVI AMENDMENTS.- Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further-

(1) in subparagraph (C)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

(2) by striking subparagraph (H) and inserting the following:

"(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(d) EFFECTIVE DATE.- The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.- Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended-

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) TITLE VIII AMENDMENTS.- Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended-

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.- In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to

such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

(c) TITLE XVI AMENDMENT.- Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(d) EFFECTIVE DATE.- The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.- Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

"(c) Notwithstanding subsection (a)(1), of the amount appropriated to carry out that subsection for fiscal year 2004, \$17,800,000 of such amount shall be transferred and made available to the Inspector General of the Social Security Administration for purposes of conducting a statistically significant survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid. Not later than February 1, 2005, the Inspector General of the Social Security Administration shall submit a report on the survey conducted in accordance with this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.- Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

(b) EFFECTIVE DATE.- The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.-

(1) CIVIL PENALTIES.- Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended-

(A) by striking "who" in the first sentence and inserting "who-";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,";

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.- Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended-

(A) by striking "who" the first place it appears and inserting "who-"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,".

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.- Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section,".

(c) CONFORMING AMENDMENTS.-

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting "representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) **EFFECTIVE DATE.**— The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, and a Federal, State, or local law enforcement agency has notified the Commissioner that such agency intends to pursue the individual by seeking arrest, extradition, or prosecution, or

"(v) is violating a condition of probation or parole imposed under Federal or State law, and a Federal, State, or local law enforcement agency has notified the Commissioner that such agency intends to seek revocation of the individual's probation or parole.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner of Social Security may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A);

"(ii) the Commissioner has information with respect to the beneficiary that is necessary for

the officer to conduct the officer's official duties; and

"(iii) the location or apprehension of the beneficiary is within the officer's official duties.".

(b) **CONFORMING AMENDMENTS TO TITLE XVI.**— Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, and a Federal, State, or local law enforcement agency has notified the Commissioner of Social Security that the agency intends to pursue the person by seeking arrest, extradition, or prosecution";

(B) in subparagraph (B), by inserting "and a Federal, State, or local law enforcement agency has notified the Commissioner of Social Security that the agency intends to seek revocation of the person's probation or parole" after "law"; and

(C) by adding at the end the following sentence after and below subparagraph (B):

"In the case of an individual whose eligibility for a month or months has been suspended pursuant to subparagraph (A) or (B), the Commissioner of Social Security may, for good cause shown, restore such individual's eligibility for all such months."; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

"(A) the recipient is described in subparagraph (A) or (B) of paragraph (4);

"(B) the Commissioner has information with respect to the recipient that is necessary for the officer to conduct the officer's official duties; and

"(C) the location or apprehension of the recipient is within the officer's official duties.".

(c) **CONFORMING AMENDMENT.**— Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed".

(d) **REGULATIONS.**— Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits pursuant to the last sentences of sections 202(x)(1)(A) and 1611(e)(4) of the Social Security Act (as amended by subsections (a) and (b), respectively).

(e) **EFFECTIVE DATE.**— The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.**— Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting

the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) **EFFECTIVE DATE.**— The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.".

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be guilty of a felony and upon conviction thereof shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be guilty of a felony and upon conviction thereof shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.".

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) *IN GENERAL.*- Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended-

(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," by striking "or 'Medicaid'," and inserting "'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan,'" and by inserting "'CMS'," after "HCFA,";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

(b) *EFFECTIVE DATE.*- The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) *IN GENERAL.*- Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by-

"(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

"(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

"(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment."

(b) *EFFECTIVE DATE.*- The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) *AMENDMENTS TO TITLE II.*- Section 208 of the Social Security Act (42 U.S.C. 408) is amended-

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) that results in the Commissioner of Social Security making a benefit payment (or an increase in such a payment) that should not have been made, shall consider the Commissioner of Social Security a victim of the crime."

(b) *AMENDMENTS TO TITLE VIII.*- Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended-

(1) by striking "(i) *RESTITUTION.*- In any case where" and inserting the following:

"(i) *RESTITUTION.*-

"(1) *IN GENERAL.*- In any case where"; and

(2) by adding at the end the following:

"(2) *SSA TREATED AS A VICTIM.*- Any Federal court, when sentencing a defendant convicted of an offense that results in the Commissioner of Social Security making a benefit payment (or an increase in such a payment) that should not have been made, shall consider the Commissioner of Social Security a victim of the crime."

(c) *AMENDMENTS TO TITLE XVI.*- Section 1632 of such Act (42 U.S.C. 1383a) is amended-

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) that results in the Commissioner of Social Security making a benefit payment (or an increase in such a payment) that should not have been made, shall consider the Commissioner of Social Security a victim of the crime."

(d) *SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.*- Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following:

"(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

"(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts."

(e) *EFFECTIVE DATE.*- The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

SEC. 210. INFORMATION FOR ADMINISTRATION OF PROVISIONS RELATED TO NONCOVERED EMPLOYMENT.

(a) *COLLECTION.*- Paragraph (2) of section 6047(d) of the Internal Revenue Code of 1986 (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: "In the case of any employer deferred compensation plan (as defined in section 3405(e)(5)) of a State, a political subdivision thereof, or any agency or instrumentality of either, the Secretary shall in such forms or regulations require the identification of any designated distribution (as so defined) if paid to any participant or beneficiary of such plan based in whole or in part upon an individual's earnings for service in the employ of any such governmental entity which did not constitute employment (as defined in section 3121(b))."

(b) *DISCLOSURE.*- Section 6103(l)(1) of the Internal Revenue Code of 1986 (relating to disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board) is amended-

(1) in subparagraph (B), by striking "and"; and

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) any designated distribution described in the second sentence of section 6047(d)(2) to the Social Security Administration for purposes of its administration of the Social Security Act."

(c) *EFFECTIVE DATE.*- The amendments made by this section shall apply to distributions made after December 31, 2003.

SEC. 211. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) *IN GENERAL.*- Section 1147 of the Social Security Act (42 U.S.C. 1320b-17) is amended to read as follows:

"*CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS*

"(a) *IN GENERAL.*- Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

"(b) *LIMITATION APPLICABLE TO CURRENT BENEFITS.*-

"(1) *IN GENERAL.*- In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due-

"(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

"(B) in the case of benefits under title XVI, by an amount greater than the lesser of-

"(i) the amount of the benefit payable to the person for that month; or

"(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

"(2) *EXCEPTION.*- Paragraph (1) shall not apply if-

"(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

"(B) the person so requests.

"(c) *NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.*- In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action-

"(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

"(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

"(d) *INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.*- Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

"(e) *PROGRAMS DESCRIBED.*- The programs described in this subsection are the following:

"(1) The old-age, survivors, and disability insurance benefits program under title II.

"(2) The special benefits for certain World War II veterans program under title VIII.

"(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66)."

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

“(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.”

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking “any payment” and all that follows through “under this title” and inserting “any payment under this title”; and

(iii) by striking “; or” and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

“(e) **CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.**— For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.”

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b-18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking “excluding any other” and inserting “excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding”; and

(ii) by striking “50 percent of”; and

(B) by striking paragraph (6) and inserting the following:

“(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.”

(c) **EFFECTIVE DATE.**— The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 212. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) **FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.**— Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;

(2) in subsection (b), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;

(3) by adding at the end the following:

“(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national, has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i).”

(b) **DISABILITY BENEFITS.**— Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

“(C) if not a United States citizen or national, has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i).”

(c) **EFFECTIVE DATE.**— The amendments made by this section apply to benefit applications filed on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) **IN GENERAL.**— Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting “, except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”; and

(2) by adding at the end the following: “In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.”

(b) **EFFECTIVE DATE.**— The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. GAO STUDY REGARDING FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) **STUDY.**—

(1) **IN GENERAL.**— The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.).

(2) **CONSULTATION REQUIRED.**— The Comptroller General shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) **REPORT.**— Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes the following:

(1) A survey of the relevant characteristics of claimant representatives that provides statistically significant results for characteristics which include (but are not limited to)—

(A) qualifications and experience;

(B) the type of employment of such representatives, such as with an advocacy group, State or local government, or insurance or other company;

(C) geographical distribution between urban and rural areas;

(D) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(E) the relationship of such representatives to claimants, such as whether the representative is a friend, family member, or client of the claimant; and

(F) the amount of compensation (if any) paid to the representatives and the method of payment of such compensation.

(2) An assessment of the quality and effectiveness of the services provided by claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors.

(3) An assessment of the costs and benefits of the appointment and payment of representatives with respect to claimant satisfaction or complaints, benefit outcomes, and program administration.

(4) An assessment of the potential results, including the effect on claimants and program administration, of extending to title XVI of the Social Security Act the fee withholding procedures which apply under title II of that Act and of allowing non-attorney representatives to be subject to any fee withholding procedures applicable under title II and XVI of such Act, and whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to any extensions of fee withholding.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. ELIMINATION OF DEMONSTRATION AUTHORITY SUNSET DATE.

Section 234(d)(2) of the Social Security Act (42 U.S.C. 434(d)(2)) is amended—

(1) in the paragraph heading, by striking “TERMINATION AND FINAL” and inserting “FINAL”; and

(2) by striking the first sentence.

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.)” and inserting “(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.”

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) **EXPENDITURES.**— Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.”

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) **FEDERAL WORK INCENTIVES OUTREACH PROGRAM.**—

(1) **IN GENERAL.**— Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.**— The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of

this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) **EFFECTIVE DATE.**— The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) **STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.**—

(1) **DEFINITION OF DISABLED BENEFICIARY.**— Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.**— The term ‘disabled beneficiary’ means an individual—
“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) **ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.**— Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) **EFFECTIVE DATE.**— The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **IN GENERAL.**— Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”.

(b) **EFFECTIVE DATE.**— The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **GAO REPORT.**— Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) **IN GENERAL.**— Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**— The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) **IN GENERAL.**— Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—
(1) in paragraph (1), by striking “section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(2) in paragraph (2), by striking “section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(3) in paragraph (3), by striking “paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)” and inserting “paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)”;

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking “241(a)” and inserting “237(a)”.

(b) **TECHNICAL CORRECTIONS.**—

(1) **TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.**— Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking “deportation” each place it appears and inserting “removal”;

(B) by striking “deported” each place it appears and inserting “removed”; and

(C) in the heading, by striking “Deportation” and inserting “Removal”.

(2) **REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.**— Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting “or the Secretary of Homeland Security” after “the Attorney General” each place it appears.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**— The amendment made by—
(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) **SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.**— The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) **REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.**— The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**— Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”;

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”.

(b) **WIDOWERS.**— Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”;

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death."

(c) **CONFORMING AMENDMENT.**- Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) **EFFECTIVE DATE.**- The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES.

(a) **IN GENERAL.**- Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by striking "the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii" and inserting "a State".

(b) **EFFECTIVE DATE.**- The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**- Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently."

(b) **EFFECTIVE DATE.**- The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **WIFE'S INSURANCE BENEFITS.**- Section 202(b)(4) of the Social Security Act (42 U.S.C. 402(b)(4)) is amended-

(1) in subparagraph (A), by striking "if, on the last day she was employed by such entity" and inserting "if, during any portion of such service"; and

(2) in subparagraph (B)-
(A) in clause (ii), by striking "Subparagraph (A)(ii)" and inserting "Clauses (i) and (ii) of subparagraph (A)"; and

(B) by adding at the end the following:
"(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the wife (or divorced wife) was employed in such service-

"(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the wife

(or divorced wife) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

"(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the wife (or divorced wife) was employed in the service of the State (or political subdivision thereof, as so defined)."

(b) **HUSBAND'S INSURANCE BENEFITS.**- Section 202(c)(2) of such Act (42 U.S.C. 402(c)(2)) is amended-

(1) in subparagraph (A), by striking "if, on the last day he was employed by such entity" and inserting "if, during any portion of such service"; and

(2) in subparagraph (B)-
(A) in clause (ii), by striking "Subparagraph (A)(ii)" and inserting "Clauses (i) and (ii) of subparagraph (A)"; and

(B) by adding at the end the following:
"(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the husband (or divorced husband) was employed in such service-

"(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the husband (or divorced husband) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

"(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the husband (or divorced husband) was employed in the service of the State (or political subdivision thereof, as so defined)."

(c) **WIDOW'S INSURANCE BENEFITS.**- Section 202(e)(7) of such Act (42 U.S.C. 402(e)(7)) is amended-

(1) in subparagraph (A), by striking "if, on the last day she was employed by such entity" and inserting "if, during any portion of such service"; and

(2) in subparagraph (B)-
(A) in clause (ii), by striking "Subparagraph (A)(ii)" and inserting "Clauses (i) and (ii) of subparagraph (A)"; and

(B) by adding at the end the following:
"(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the widow (or surviving divorced wife) was employed in such service-

"(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the widow (or surviving divorced wife) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

"(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the widow (or surviving divorced wife) was employed in the service of the State (or political subdivision thereof, as so defined)."

(d) **WIDOWER'S INSURANCE BENEFITS.**- Section 202(f)(2) of such Act (42 U.S.C. 402(f)(2)) is amended-

(1) in subparagraph (A), by striking "if, on the last day he was employed by such entity" and inserting "if, during any portion of such service"; and

(2) in subparagraph (B)-
(A) in clause (ii), by striking "Subparagraph (A)(ii)" and inserting "Clauses (i) and (ii) of subparagraph (A)"; and

(B) by adding at the end the following:
"(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the widower (or surviving divorced husband) was employed in such service-

"(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the widower (or surviving divorced husband) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

"(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the widower (or surviving divorced husband) was employed in the service of the State (or political subdivision thereof, as so defined)."

(e) **MOTHER'S AND FATHER'S INSURANCE BENEFITS.**- Section 202(g)(4) of the such Act (42 U.S.C. 402(g)(4)) is amended-

(1) in subparagraph (A), by striking "if, on the last day the individual was employed by such entity" and inserting "if, during any portion of such service"; and

(2) in subparagraph (B)-
(A) in clause (ii), by striking "Subparagraph (A)(ii)" and inserting "Clauses (i) and (ii) of subparagraph (A)"; and

(B) by adding at the end the following:
"(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the individual was employed in such service-

"(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the individual was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

"(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the individual was employed in the service of the State (or political subdivision thereof, as so defined)."

(f) **EFFECTIVE DATE.**- The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply with respect to applications for benefits under title II of the Social Security Act based on earnings while in the service of any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act)-

(1) if the last day of such service occurs before December 31, 2003, or

(2) in any case in which the last day of such service occurs before June 30, 2004, subject to a contract for such service entered into prior to September 30, 2003.

SEC. 419. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.— Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

“(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

“(1) \$624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

“(2) \$105,379,671 to the Federal Disability Insurance Trust Fund; and

“(3) \$173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.”.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.— Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking “(a)”; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107-117.— Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting “and before 2002” after “1977”.

Subtitle C—Technical Amendments**SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.**

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and

(2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.— Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires” before the semicolon.

(b) EFFECTIVE DATE.— The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.— Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “described in subsection (g)(5)” and inserting “on a farm operated for profit”.

(b) AMENDMENT TO SOCIAL SECURITY ACT.— Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking “described in section 210(f)(5)” and inserting “on a farm operated for profit”.

(c) CONFORMING AMENDMENT.— Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking “or is domestic service in a private home of the employer”.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.— Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking “section 162(m)” and inserting “section 162(l)”.

(b) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.— Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis”.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.— Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions”.

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.— Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions”; and

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) QUORUM RULES.— Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking “entire Board of Trustees” and inserting “Trustees then holding office”.

(b) POWERS OF THE BOARD OF TRUSTEES.— Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

“(4) POWERS OF THE BOARD OF TRUSTEES.— The Board of Trustees shall—

“(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

“(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

“(C) adopt bylaws and other rules to govern its operations;

“(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

“(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

“(F) pay administrative expenses of the Trust from the assets of the Trust; and

“(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.”.

(c) STATE AND LOCAL TAXES.— Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

“(6) STATE AND LOCAL TAXES.— The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.”.

(d) FUNDING.— Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) TRANSFERS.—

(1) Section 15(k) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(k)) is amended by adding at the end the following: “At the direction of the Railroad Retirement Board, the National Railroad Retirement Investment Trust shall transfer funds to the Railroad Retirement Account.”.

(2) Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

(A) by inserting “or the Railroad Retirement Account” after “National Railroad Retirement Investment Trust” the second place it appears;

(B) by inserting “or the Railroad Retirement Board” after “National Railroad Retirement Investment Trust” the third place it appears;

(C) by inserting “(either directly or through a commingled account consisting only of such obligations)” after “United States” the first place it appears; and

(D) in the third sentence, by inserting before the period at the end the following: “or to purchase such additional obligations”.

(3) Paragraph (4)(B)(ii) of section 7(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)(B)(ii)) is amended by inserting “quarterly or at such other times as the Railroad Retirement Board and the Board of Trustees of the National Railroad Retirement Investment Trust may mutually agree” after “amounts” the second place it appears.

(f) CLERICAL AMENDMENTS.— Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking “trustee’s” each place it appears and inserting “Trustee’s”;

(2) in subparagraph (C), by striking “trustee” and “trustees” each place it appears and inserting “Trustee” and “Trustees”, respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking “trustee” and inserting “Trustee”.

Subtitle D—Amendments Related to Title XVI**SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.**

(a) INFREQUENT OR IRREGULAR INCOME.— Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

“(3) in any calendar quarter, the first—

“(A) \$60 of unearned income, and

“(B) \$30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;”.

(b) INTEREST OR DIVIDEND INCOME.— Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking “and” at the end;

(2) in paragraph (22), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(23) interest or dividend income from re-sources—

“(A) not excluded under section 1613(a), or

“(B) excluded pursuant to Federal law other than section 1613(a).”.

(c) EFFECTIVE DATE.— The amendments made by this section shall be effective with respect to

benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) **UNDERPAYMENTS OF BENEFITS.**— Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking “6” and inserting “9”; and
(2) by striking “(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)”.

(b) **ADVANCEABLE TAX CREDITS.**— Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

“(11) for the 9-month period beginning after the month in which received.

“(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

“(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);”.

(c) **EFFECTIVE DATE.**— The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. MODIFICATION OF DEDICATED ACCOUNT REQUIREMENTS.

(a) **IN GENERAL.**— Section 1631(a)(2)(F) of the Social Security Act (42 U.S.C. 1383(a)(2)(F)) is amended—

(1) in clause (ii)(II)—

(A) in item (ff), by striking “or” at the end;

(B) by redesignating item (gg) as item (hh);

(C) by inserting after item (ff) the following:

“(gg) reimbursement of expenditures incurred by the representative payee that are for the good of such individual; or”; and

(D) in the matter following item (hh) (as redesignated by subparagraph (B)), by striking “(gg), is related to the impairment (or combination of impairments)” and inserting “(hh), is expended for the good”; and

(2) in clause (iv), by inserting “, including with respect to allowable expenses paid from the account in accordance with clause (ii)(II)” before the period.

(b) **EFFECTIVE DATE.**— The amendments made by this section take effect on January 1, 2004, and apply with respect to allowable expenses incurred or accounts established on or after that date.

SEC. 433. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) **IN GENERAL.**— Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking “a child who” and inserting “under the age of 22 and”.

(b) **EFFECTIVE DATE.**— The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. EXCLUSION OF AMERICORPS AND OTHER VOLUNTEER BENEFITS FOR PURPOSES OF DETERMINING SUPPLEMENTAL SECURITY INCOME ELIGIBILITY AND BENEFIT AMOUNTS AND SOCIAL SECURITY DISABILITY INSURANCE ENTITLEMENT.

(a) **IN GENERAL.**—

(1) **SSI.**—

(A) **INCOME.**— Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) (as amended by section 430(a)(2)) is amended—

(i) in paragraph (22), by striking “and” at the end;

(ii) in paragraph (23), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(24) any cash or in-kind benefit conferred upon (or paid on behalf of) an individual serving as a volunteer or participant in a program administered by the Corporation for National and Community Service for service in such program.”.

(B) **SUBSTANTIAL GAINFUL ACTIVITY.**— Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

“(K) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity, the Commissioner of Social Security shall disregard services performed as a volunteer or participant in any program administered by the Corporation for National and Community Service, and any earnings derived from such service.”.

(2) **SSDI.**— Section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by adding at the end the following:

“(C) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity, the Commissioner of Social Security shall disregard services performed as a volunteer or participant in any program administered by the Corporation for National and Community Service, and any earnings derived from such service.”.

(b) **EFFECTIVE DATE.**— The amendments made by this section shall apply to benefits payable for months beginning on or after 60 days after the date of enactment of this Act.

SEC. 435. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NON-RECURRING INCOME.

(a) **IN GENERAL.**— Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

“(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

“(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be non-recurring income.”.

(b) **DELETION OF OBSOLETE MATERIAL.**— Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

“(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.”.

(c) **EFFECTIVE DATE.**— The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 436. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) **IN GENERAL.**— Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting “and” after “citizen of the United States,”; and

(2) by striking “, and who,” and all that follows and inserting a period.

(b) **EFFECTIVE DATE.**— The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 437. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) **EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.**— Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking “or fellowship received for use in paying” and inserting “fellowship, or gift (or portion of a gift) used to pay”.

(b) **EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.**— Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking “and” at the end;

(2) in paragraph (14), by striking the period and inserting “; and”; and

(3) by inserting after paragraph (14) the following:

“(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.”.

(c) **EFFECTIVE DATE.**— The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 438. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) **TREATMENT OF PAY AS RECEIVED WHEN EARNED.**— Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

“(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.”.

(b) **EFFECTIVE DATE.**— The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 439. UPDATE OF RESOURCE LIMITS.

(a) **INCREASE.**— Section 1611(a)(3) of the Social Security Act (42 U.S.C. 1382(a)(3)) is amended—

(1) in subparagraph (A), by adding at the end the following: “On January 1, 2004, such dollar amount shall be increased to an amount equal to 150 percent of the dollar amount applicable to an individual described in paragraph (1)(B)(ii).”; and

(2) in subparagraph (B)—

(A) by striking “and” the last place it appears; and

(B) by inserting “, and to \$3,000 on January 1, 2004” before the period.

(b) **COST-OF-LIVING ADJUSTMENT.**— Section 1617(a)(1) of the Social Security Act (42 U.S.C. 1382f(a)(1)) is amended by inserting “(a)(3)(B),” before “(b)(1)”.

(c) **EFFECTIVE DATES.**—

(1) INCREASE.—The amendments made by subsection (a) shall take effect on January 1, 2004.

(2) COST-OF-LIVING ADJUSTMENT.—The amendment made by subsection (b) shall take effect on January 1, 2005.

SEC. 440. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled. Any review by the Commissioner of Social Security of a State agency determination under this paragraph shall be made before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) with respect to fiscal year 2004, at least 25 percent of all determinations referred to in paragraph (1) that are made in such year after the later of—

"(I) March 31; and

"(II) the date of enactment of this subsection; and

"(ii) with respect to fiscal years after fiscal year 2004, at least 50 percent of all such determinations that are made in each such fiscal year.

"(B) In conducting reviews pursuant to subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review those determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect."

Mr. GRASSLEY. Mr. President, I urge my colleagues to support H.R. 743, the Social Security Protection Act of 2003.

The Social Security Protection Act of 2003 provides the Social Security Administration with important new tools to fight waste, fraud, and abuse. This bill would eliminate benefits to fugitive felons. It would prohibit benefits to illegal workers. It would eliminate the "last day" loophole in the Government Pension Offset. It would provide additional oversight of representative payees. Finally, the bill would improve benefits for person with disabilities.

This bill passed the House of Representatives in April. The Senate Committee on Finance approved the bill in September with a number of important changes.

In order to expedite passage of this legislation, Senator BAUCUS and I have worked closely with the chairman and the ranking member of the Social Security Subcommittee of the House Ways and Means Committee over the past several weeks. The result of this work is reflected in the managers' amendment that has now been incorporated into this bill.

I have drafted an explanation of the amendment that has been agreed to by the chairman and the ranking member of the House Social Security Subcommittee, as well as by the chairman and ranking member of the Senate Finance Committee. I ask unanimous consent that the explanation be printed in the RECORD.

I strongly urge my colleagues to support this commonsense, bipartisan legislation.

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

EXPLANATION OF THE MANAGER'S AMENDMENT TO H.R. 743, THE "SOCIAL SECURITY PROTECTION ACT OF 2003" AS REPORTED BY THE SENATE COMMITTEE ON FINANCE, REPORT 108-176

Section 107. Survey of use of payments by representative payees

The Manager's amendment would limit the scope and cost of the survey and change the organization designated to have the responsibility for conducting the survey.

As a result of the Manager's amendment, the Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration (SSA), the General Accounting Office, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, shall conduct a one-time audit of a representative sample of representative payees who are not subject to triennial on-site review or other random review under SSA policy or law, as amended by this bill. That is, the sample shall include individual representative payees serving one or several beneficiaries; individual "high-volume" payees serving more than several but fewer than 15 beneficiaries; individual "high-volume" payees serving more than several but fewer than 15 beneficiaries; and non-fee-for-service organizational payees who are serving fewer than 50 beneficiaries. The cost of this audit will not be greater than \$8.5 million. The results of the audit should be presented in a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

The audit shall assess the extent to which representative payees are not performing their duties as payees in accordance with SSA standards for payee conduct. Such SSA standards include, but are not limited to, whether the funds are being used for the benefit of the beneficiary. To the extent possible, the report shall identify which types of payees have the highest risk of misuse of benefits, and suggest ways to reduce those risks and better protect beneficiaries.

In conducting the audit, the Commissioner shall take special care to avoid excessive intrusiveness into family affairs, including making appropriate adjustments to its audit methodology, if some or all of the audit is contracted out, such contractor shall be chosen with due regard for its experience in conducting reviews of individuals and families, as well as businesses and other organizations.

In the course of conducting the audit and preparing the report, the Commissioner, or a designated contractor, may make observations about the adequacy of payees' actions and recommendations for change or further review. However, determinations as to whether funds have been misused and/or whether a payee should be changed must be made only by the Commissioner. Further, those conducting the survey should not provide advice, guidance or other feedback to payees that are reviewed under this audit regarding their performance as payees.

This provision authorizes and appropriates up to \$8.5 million under subsection 1110(a) of the Social Security Act to carry out this audit. However, these funds are appropriated in addition to any funds appropriated for this subsection under any other law. There is no intention of reducing the funds that would otherwise be available under this subsection to carry out any other projects.

It is expected that the Commissioner will carry out a survey that is statistically valid at reasonable levels of confidence and precision. However, if the Commissioner deter-

mines that such a survey can be prepared for less than the amount appropriated, then the full \$8.5 million should not be used. The Commissioner has the authority to limit the amount expended under this provision to that lesser amount. The Committees expect the Commissioner to carefully assess the design of the audit to ensure that it is being performed as economically as possible, while still meeting the objective of obtaining information that is of sufficient statistical validity to assist in increasing the knowledge and understanding of the representative payee program and facilitating its possible improvement.

Effective Date

The report will be due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate 18 months after the date of enactment of this Act.

Section 203. Denial of Title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole

The Manager's amendment would substitute the following "good cause" exception for the original provision included in the Committee-reported bill.

Press accounts, hearing testimony and other information provided to the Committees have identified cases in which benefit continuation may be justified due to extenuating circumstances. In light of this, the provision gives the Commissioner authority to pay Title II or Title XVI benefits that were withheld, or would otherwise be withheld, if there is good cause in the following circumstances:

First, the Commissioner shall apply the good cause exception if a court of competent jurisdiction finds the person is not guilty, charges are dismissed, a warrant for arrest is vacated, or there are similar exonerating circumstances found by the court.

Second, the Commissioner shall apply the good cause exception if the individual establishes to the satisfaction of the Commissioner that he or she was the victim of identity fraud and the warrant was erroneously issued on such basis.

Third, the Commissioner may apply the good cause exception if the criminal offense was non-violent and not drug-related, and in the case of probation or parole violators, both the violation and the underlying offense were non-violent and not drug-related. However, in such cases, the Commissioner may only establish good cause based on mitigating factors such as the nature and severity of the crime, the length of time that has passed since the warrant was issued, whether other crimes have been committed in the interim, and the beneficiary's mental capacity to resolve the issue.

This document (which is to accompany the Manager's amendment) also seeks to clarify two issues with respect to current law. First, section 1611(e)(5)(A)(ii) of the Social Security Act (42 USC 1382(e)(5)(A)(ii)) requires a law enforcement officer to notify the Commissioner that an SSI recipient has information necessary for the officer to conduct his official duties.

The Manager's amendment deletes this information requirement in (A)(ii) to clarify that a law enforcement officer only needs to notify the Commissioner of the recipient's fugitive status (or parole / probation status), and the officer's duty to locate or apprehend the recipient. This change is not intended to have any effect on the existing interpretation or application of section 1611 and is consistent with current practices and procedures.

Second, several recent decisions by Administrative Law Judges have noted that neither

the current statute nor the current regulations define the phrase "fleeing to avoid prosecution." This report provides the following clarification. If it is reasonable to conclude that the individual knew or should have known that criminal charges were pending, or has been made aware of such charges by the SSA, then the individual should be considered "fleeing," whether or not law enforcement seeks arrest or extradition.

Section 206. Penalty for corrupt or forcible interference with administration of the Social Security Act

The Manager's amendment makes a technical correction to address a drafting error.

Section 209. Authority for judicial orders of restitution

The Manager's amendment makes technical corrections and eliminates the special restitution account created within the Treasury Department. Funds collected through restitution would instead be credited to the Social Security trust funds or the general fund of the U.S. Treasury, as appropriate.

Section 210. Information for administration of provisions related to non-covered employment

The Manager's amendment would strike this section.

Section 212. Prohibition of payment of Title II benefits to persons not authorized to work in the United States

The Manager's amendment would make a technical correction related to certain non-citizens and change the effective date.

B-1 visa holders are generally aliens visiting the United States temporarily for business on behalf of a foreign employer. According to State Department regulations, the B-1 visa holder conducts business as a continuation of his foreign employment. D visa holders are generally alien flight attendants who enter into an employment contract in the United States with a U.S. airline and who only fly into and out of the United States.

Although these categories of visa holders are not technically authorized to work in the United States, such persons are legally present in the United States while they are working. Thus, they should not be subject to the benefit prohibition.

The Manager's amendment would also change the effective date to limit the application of this provision to persons with Social Security numbers issued after January 1, 2004. This change would provide the Social Security Administration the opportunity to develop the recordkeeping system necessary to enforce the provision.

Section 302. Temporary extension of attorney fee payment system to Title XVI claims

The Manager's amendment re-designates Section 302 as Section 304 and adopts the House-passed provision to extend the current Title II attorney fee withholding process to Title XVI for a period of five years.

The amendment would also cap the 6.3 percent assessment on approved attorney representation fees at \$75 (indexed for inflation), as provided for Title II claims under Section 301 of the bill.

With respect to the cap of \$75 for Title II and Title XVI claims, it should be noted that the cap applies on a per case basis. (Concurrent cases shall be treated as a single case for this purpose.) In a case multiple representatives, the SAA should apply the assessment proportionately to each representative issued a check and in no case should the cumulative assessment exceed \$75.

Finally, the amendment would amend the existing dedicated account and installment payment provisions in Title XVI. Under cur-

rent law, dedicated accounts are required when an individual receives past-due benefits equal to 6 times the Federal Benefit Rate (FBR); installment payments are required when past due benefits are to be 12 times the FBR. The amendment clarifies that these triggering amounts would be based on the amount of past-due benefits that remain after attorney fees that the Social Security Administration paid directly to the attorney out of past-due benefits are deducted.

Effective Date

Applies with respect to fees for representation that are first required to be certified or paid on or after the date the Commissioner submits to Congress a notice that she has completed the actions necessary to fully implement the demonstration project under Section 303.

Section 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives

The Manager's amendments adds the following new section.

Present Law

An individual applying for Title II or Title XVI benefits may seek the assistance of another person. The person assisting the applicant may not charge or receive a fee unless the Social Security Administration (SSA) approves it. If the person assisting the individual is an attorney and the individual is awarded past-due benefits under Title II, the SSA may deduct the attorney's fee from the individual's benefits and pay the attorney directly, minus a fee to cover the SSA's administrative costs.

Explanation of Provision

This provision would authorize a nationwide demonstration project to allow non-attorneys the option of fee withholding under both Title II and Title XVI for a period of five years. The SSA would charge a 6.3 percent assessment on approved fees, subject to a \$75 cap (indexed for inflation), as applies to attorneys under section 206 and section 1631(d)(2) of the Act.

Non-attorney representatives seeking direct payment of fees under the demonstration project would need to meet at least the following prerequisites: hold a bachelor's degree or equivalent experience, pass an examination written and administered by the Commissioner, secure professional liability insurance or the equivalent, undergo a criminal background check, and complete continuing education courses. The provision would require the Commissioner to implement and carry out the demonstration project no later than one year after the date of enactment. The demonstration project would terminate 5 years after being fully implemented.

The Commissioner may charge a reasonable fee to individuals seeking approval for direct payments. Such fees should be comparable to the fees charged to other professionals subject to similar regulation.

The Commissioner should consult with relevant experts in the area of disability policy and professional ethics (including, but not limited to, experienced non-attorney and attorney disability claimant representatives, disability advocates, and organizations that develop and administer examinations for the regulation of professionals) in developing the exam and in determining whether other prerequisites should be required.

The Commissioner would be required to submit interim reports on the progress of the demonstration and a final report after the conclusion of the demonstration.

Reason for Change

The demonstration project authorized by this section would allow the SSA to pay all

qualified representatives directly out of past-due benefits for Title II and Title XVI claims and would enable Congress (in conjunction with the GAO study required under Section 304) to assess whether such an extension of fee withholding would increase access to qualified professional representation.

Effective Date

Applies with respect to fees for representation that are first required to be certified or paid after the date the Commissioner submits to Congress a notice that she has completed the actions necessary to fully implement this demonstration project. The interim reports would be due annually, and the final report would be due 90 days after the termination of the demonstration.

Section 304. GAO study of fee payment process for claimant representatives

The Manager's amendment re-designates Section 302 as Section 304 and modifies the GAO study.

The Committee-reported bill called for a study based upon the potential results of extending fee withholding to Title XVI and to non-attorneys. As modified by the Manager's amendment, the study will now be based on the actual results of such an extension as provided in Section 302 and Section 303 of the bill.

The GAO report would provide a comprehensive overview of the appointment and payment of claimant representatives. It would include a survey of all categories of representatives—both attorneys and non-attorneys, as well as those who do and do not elect fee withholding. It would compare claimant outcomes by type of representatives. It would also compare the costs and benefits of fee withholding from the perspective of the Social Security Administration, claimants, and representatives.

GAO would evaluate the interactions between fee withholding, the windfall offset, and interim assistance reimbursement. This evaluation would consider the effects of such interactions on claimant outcomes, access to representatives, and reimbursements to the Federal and State governments.

Finally, GAO would make recommendations for any legislative or administrative changes deemed appropriate. The report would be due no later than 3 years after the implementation date of Section 303.

Section 401. Application of demonstration authority sunset date to new projects

The Manager's amendment would extend the demonstration authority through December 18, 2005, rather than making it permanent, and allow projects initiated by December 17, 2005 to be completed thereafter.

Section 407. Reauthorization of appropriations for certain work incentives programs

The Manager's amendment adds the following new section.

Present Law

The Ticket to Work Act directs SSA to establish a community-based program to provide benefit planning and assistance to disabled beneficiaries. To establish this program, SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. Services include disseminating accurate information on work incentive programs (the Ticket to Work, section 1619 programs, etc.) and related issues to all disabled beneficiaries. In fulfillment of this requirement, SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) program. The Act also authorizes SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. Services include information and advice about obtaining vocational rehabilitation and employment services and advocacy or other services that a

disabled beneficiary may need to secure, maintain, or regain employment. SSA has established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

The Ticket to Work Act authorizes certain funding amounts to be appropriated for these BPAO and PABSS programs for the fiscal years 2000 through 2004.

Explanation of Provision

This provision extends the authorization to appropriate funding for these programs for another five fiscal years.

Reason for Change

SSA cannot continue to fund the BPAO and PABSS programs beyond fiscal year 2004 without an extension of authorization. These programs provide essential vocational rehabilitation and employment services for disabled beneficiaries to secure, maintain, and regain employment and reduce their dependence on cash benefit programs.

Effective Date

Upon enactment.

Section 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana

The Manager's amendment would incorporate the House-passed provision in place of the Committee's provision, and add the State of Louisiana, as requested by its State Treasurer.

Section 418. 60-month period of employment requirement for application of government pension offset exemption

The Manager's amendment would adopt the House-passed provision with a revised effective date and transition rule. This provision is effective with respect to individuals whose last day of State or local government service occurs on or after July 1, 2004. The Manager's amendment would adopt the House-passed provision with a revised effective date and transition rule. This provision is effective with respect to individuals whose last day of State or local government service occurs on or after July 1, 2004. The transition rule allows State or local employees, who retire from government employment within five years of enactment, to count previous work within the same retirement system towards the 60-month requirement. Such previous work must meet both of the following criteria: (a) the work was covered under both Social Security and the government pension system, and (b) the work was performed prior to the date of enactment.

The Manager's amendment also consolidated existing provisions of the Social Security Act in order to co-locate the government pension offset provision with the provision on which it is modeled, the dual entitlement rule for covered workers.

Section 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision

The Manager's amendment re-designates Section 419 as Section 420 and adds the following new section.

Present Law

There are approximately 7.5 million workers who do not pay taxes into the Social Security system. The majority of these workers are State and local government employees. Many of these government workers may eventually qualify for Social Security as the result of other employment, or as the spouse or survivor of a worker covered by Social Security. The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) were enacted in 1977 and 1983, respectively, to provide more equitable treatment of covered and non-covered workers.

Explanation of Provision

This provision requires the Social Security Administration to send a modified Social Security Statement to non-covered employees that describes the potential maximum benefit reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Social Security payroll taxes.

It also requires government employers to notify newly hired non-covered employees of the potential maximum effect of non-covered work on their Social Security benefits. The employer shall obtain signed documentation of such notification from the employee and transmit a copy to the pension paying entity.

Reason for Change

Organizations representing State and local employees report their members are often unaware of the GPO and WEP provisions until they apply for retirement benefits. The Committee believes the Social Security Administration should utilize the annual earnings statement mailed to every employee age 25 and over to more explicitly inform State and local employees about the GPO and WEP. It is important that these employees also be informed about their options to become exempt from these provisions by electing coverage under the Social Security program.

Effective Date

Government employers must provide notification of the potential effect of non-covered work beginning with employees hired on or after January 1, 2005. The Social Security Administration must provide the modified Social Security Statements beginning January 1, 2007.

Section 420A. Elimination of disincentives to return to work for childhood disability beneficiaries

The Manager's amendment adds the following new section.

Current Law

A Childhood Disability Beneficiary (CDB)- sometimes also referred to as a Disabled Adult Child (DAC)- whose benefits terminate because disability ceased can become re-entitled on the parent's record only if he or she is disabled within the 7-year period following the month benefits terminate and is not entitled to higher benefits on his or her own record.

Explanation of Provision

The provisions would allow re-entitlement to childhood disability benefits after the 7-year period if the beneficiary's previous entitlement had terminated because disability ceased due to the performance of Substantial Gainful Activity (SGA) and the beneficiary is not entitled to higher benefits on his or her own record. This provision would not apply to beneficiaries whose previous entitlement terminated based on medical improvement.

Reason for Change

Prohibiting re-entitlement to childhood disability benefits after the expiration of the 7-year period is a significant disincentive to return-to-work for a CDB. Many CDBs find that the benefits for which they qualify on their own work record are less- often significantly less- than the benefits they received as a CDB based on a parent's work history. The permanent loss of benefits on the parent's record remains a major disincentive for a CDB to attempt to return to work, one not addressed by the Ticket to Work and Work Incentives Improvement Act of 1999. Although this provision is expected to affect very few individuals, the change will make a significant difference for those individuals in

their efforts to work to the fullest extent possible.

Effective Date

The provision is effective on the first day of the seventh month that begins after the date of enactment of this Act.

Section 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001

The Manager's amendment strikes subsections (e)(1) and (e)(3).

Section 432. Modification of the dedicated account requirements

The Manager's amendment strikes this section.

Section 434. Exclusion of Americorps and other volunteer benefits for purposes of determining supplemental security income eligibility and benefit amounts and social Security disability insurance entitlement

The Manager's amendment strikes this section.

Section 439. Update of resource limit

The Manager's amendment strikes this section.

Section 440. Review of state agency blindness and disability determinations

The Manager's amendment strikes this section.

Mr. BAUCUS. Mr. President, I rise today to urge my colleagues to support H.R. 743, the Social Security Protection Act of 2003 as modified. H.R. 743 is bipartisan legislation developed by Ways and Means Social Security Subcommittee Chairman SHAW and Ranking Member MATSUI. H.R. 743 passed the House by a vote of 396 to 28, and was reported by the Committee on Finance with unanimous support. In keeping with the bipartisan tradition of the Senate Finance Committee and with the bipartisan origins of this legislation, Senator GRASSLEY and I have worked together to further refine this legislation for Senate consideration.

H.R. 743 makes a number of important changes to the Social Security and Supplemental Security Income, SSI, programs. These changes will accomplish a number of important goals: they will enhance the financial security of some of the most vulnerable beneficiaries of these programs, increase protections to seniors from deceptive practices by individuals in the private sector, reduce disincentives to employment for disabled individuals, improve program integrity and thereby save money for the Social Security and Medicare trust funds and for taxpayers, and make the Social Security program more equitable.

One of the most important results of this legislation will be to enhance the financial security of the almost 7 million Social Security and SSI beneficiaries who are not capable of managing their own financial affairs due to advanced age or disability. The Social Security Administration, SSA, currently appoints individuals or organizations to act as "representative payees" for such beneficiaries. Most of these representative payees perform their roles conscientiously. However, some do not- indeed there have even been instances of terrible abuse in this program.

It is imperative that Congress take action to guard vulnerable seniors and disabled individuals from such abuse. This legislation increases requirements for SSA to provide restitution to beneficiaries when representative payees defraud the beneficiaries of their benefits. The legislation also tightens the qualifications for representative payees, increases oversight of the program, and imposes stricter penalties on those who violate their responsibilities. Finally, the legislation provides for the first time ever that there will be a one-time audit of a representative sample of representative payees to assess the extent to which representative payees are not using the beneficiary's funds for the benefit of the beneficiary.

The legislation expands the protection to seniors and disabled individuals by increasing the list of references to Social Security, Medicare and Medicaid which cannot be used by private-sector individuals, companies and organizations to give a false impression of Federal endorsement. The legislation also protects seniors from those who deceptively attempt to charge them for services that the seniors could receive for free from SSA.

The legislation eliminates a disincentive to return to work for childhood disability beneficiaries. The provision would make it easier to regain childhood disability benefits for disabled adult children who had returned to work at one time. Additionally, H.R. 743 also includes technical amendments to improve the effectiveness of the Ticket to Work and Work Incentives Improvement Act, legislation passed in 1999 to help beneficiaries with disabilities become employed and move toward self-sufficiency.

H.R. 743 improves program integrity by expanding the current prohibition against paying benefits to fugitive felons. As part of the 1996 welfare reform law, Congress banned the payment of SSI benefits to these individuals. However, under current law, fugitive felons can still receive Social Security benefits under title II. This legislation prohibits the payment of title II Social Security benefits to fugitive felons.

The bill also makes the Social Security program more equitable by including a provision to make an exemption to the Government Pension Offset more uniform. The Government Pension Offset, GPO, was enacted in order to equalize the treatment of workers in jobs not covered by Social Security and workers in jobs covered by Social Security, with respect to spousal and survivors benefits. The GPO reduces the Social Security spousal or survivors benefit by an amount equal to two-thirds of the Government pension. However, as a GAO report highlighted, State and local government workers are exempt from the GPO if their job on their last day of employment was covered by Social Security. In contrast, Federal workers who switched from the Civil Service Retirement System, CSRS, a system that is not cov-

ered by Social Security, to the Federal Employee Retirement System, FERS, a system that is covered by Social Security, must work for 5 years under FERS in order to be exempt from the GPO. H.R. 743 makes the exemption to the Government Pension Offset similar for State and local government workers as for Federal Government workers.

I believe that each of the provisions of H.R. 743 deserve the support of the Senate. Moreover, in an attempt to expedite Congressional passage of this legislation, the changes that Senator GRASSLEY and I want to make to the bill as reported by the Finance Committee have already been worked out with both the chairman and the ranking member of the Social Security Subcommittee of the House Ways and Means Committee. Moreover, we have "report language" that has been agreed to by the chairman and the ranking member of the Social Security Subcommittee— as well as by the chairman and ranking member of the Senate Finance Committee which will be included in the CONGRESSIONAL RECORD directly following the legislative language. This statement provides details about each of the provisions of the legislation, as well as the rationale behind each provision.

This legislation contains the types of improvements we can all agree on, as demonstrated by the overwhelming bipartisan vote in the House, and the bipartisan, bicameral agreement of the chairmen and ranking members of the committees of jurisdiction. I wholeheartedly urge my colleagues in the Senate to approve these sensible and important changes.

Mr. FRIST. Mr. President, I ask unanimous consent that the Grassley amendment at the desk be agreed to, the committee substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2227) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 743), as amended, was read the third time and passed, as follows:

H.R. 743

Resolved, That the bill from the House of Representatives (H.R. 743) entitled "An Act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) *SHORT TITLE.*— This Act may be cited as the "Social Security Protection Act of 2003".

(b) *TABLE OF CONTENTS.*— The table of contents is as follows:

Sec. 1. *Short title and table of contents.*

TITLE I— PROTECTION OF BENEFICIARIES

Subtitle A— Representative Payees

Sec. 101. *Authority to reissue benefits misused by organizational representative payees.*

Sec. 102. *Oversight of representative payees.*

Sec. 103. *Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.*

Sec. 104. *Fee forfeiture in case of benefit misuse by representative payees.*

Sec. 105. *Liability of representative payees for misused benefits.*

Sec. 106. *Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.*

Sec. 107. *Survey of use of payments by representative payees.*

Subtitle B— Enforcement

Sec. 111. *Civil monetary penalty authority with respect to wrongful conversions by representative payees.*

TITLE II— PROGRAM PROTECTIONS

Sec. 201. *Civil monetary penalty authority with respect to withholding of material facts.*

Sec. 202. *Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.*

Sec. 203. *Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.*

Sec. 204. *Requirements relating to offers to provide for a fee, a product or service available without charge from the Social Security Administration.*

Sec. 205. *Refusal to recognize certain individuals as claimant representatives.*

Sec. 206. *Criminal penalty for corrupt or forcible interference with administration of Social Security Act.*

Sec. 207. *Use of symbols, emblems, or names in reference to social security or medicare.*

Sec. 208. *Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.*

Sec. 209. *Authority for judicial orders of restitution.*

Sec. 210. *Authority for cross-program recovery of benefit overpayments.*

Sec. 211. *Prohibition on payment of title II benefits to persons not authorized to work in the United States.*

TITLE III— ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. *Cap on attorney assessments.*

Sec. 302. *Temporary extension of attorney fee payment system to title XVI claims.*

Sec. 303. *Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.*

Sec. 304. *GAO study regarding the fee payment process for claimant representatives.*

TITLE IV— MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A— Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. *Application of demonstration authority sunset date to new projects.*

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.

Sec. 407. Reauthorization of appropriations for certain work incentives programs.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.

Sec. 420. Post-1956 Military Wage Credits.

Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.

Subtitle D—Amendments Related to Title XVI

Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.

Sec. 431. Uniform 9-month resource exclusion periods.

Sec. 432. Elimination of certain restrictions on the application of the student earned income exclusion.

Sec. 433. Exception to retrospective monthly accounting for nonrecurring income.

Sec. 434. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

Sec. 435. Treatment of education-related income and resources.

Sec. 436. Monthly treatment of uniformed service compensation.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) **TITLE II AMENDMENTS.**—

(1) **REISSUANCE OF BENEFITS.**— Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) **MISUSE OF BENEFITS DEFINED.**— Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) **TITLE VIII AMENDMENTS.**—

(1) **REISSUANCE OF BENEFITS.**— Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2)."

(2) **MISUSE OF BENEFITS DEFINED.**— Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

"(j) **MISUSE OF BENEFITS.**— For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) **TECHNICAL AMENDMENT.**— Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) **TITLE XVI AMENDMENTS.**—

(1) **REISSUANCE OF BENEFITS.**— Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) **EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.**— Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

(3) **MISUSE OF BENEFITS DEFINED.**— Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

(d) **EFFECTIVE DATE.**— The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) **CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.**—

(1) **TITLE II AMENDMENTS.**— Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which

shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(2) TITLE XVI AMENDMENTS.- Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended-

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)-

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (I) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) EFFECTIVE DATE.- The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.-

(1) TITLE II AMENDMENT.- Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which-

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted dur-

ing such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include-

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate."

(2) TITLE VIII AMENDMENT.- Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

"(k) PERIODIC ONSITE REVIEW.-

"(I) IN GENERAL.- In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which-

"(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

"(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

"(2) REPORT.- Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (I) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include-

"(A) the number of such reviews;

"(B) the results of such reviews;

"(C) the number of cases in which the representative payee was changed and why;

"(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(E) the number of cases discovered in which there was a misuse of funds;

"(F) how any such cases of misuse of funds were dealt with by the Commissioner;

"(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(H) such other information as the Commissioner deems appropriate."

(3) TITLE XVI AMENDMENT.- Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

"(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the

Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which-

"(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

"(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include-

"(I) the number of the reviews;

"(II) the results of such reviews;

"(III) the number of cases in which the representative payee was changed and why;

"(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(V) the number of cases discovered in which there was a misuse of funds;

"(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

"(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(VIII) such other information as the Commissioner deems appropriate."

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.- Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended-

(1) in subparagraph (B)(i)-

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

"(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

(2) in subparagraph (B), by adding at the end the following:

"(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under

this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 202(x)(1)(A)(iv).”

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”;

(3) in subparagraph (C)(i)(II)—

(A) by striking “subparagraph (B)(i)(IV).”

and inserting “subparagraph (B)(i)(VI).”; and

(B) by striking “section 1631(a)(2)(B)(ii)(IV)”

and inserting “section 1631(a)(2)(B)(ii)(VI).”; and

(4) in subparagraph (C)(i)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

“(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

“(V) such person is person described in section 202(x)(1)(A)(iv).”

(b) TITLE VIII AMENDMENTS.— Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

“(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(E) obtain information concerning whether such person is a person described in section 804(a)(2); and”;

(2) in subsection (b), by adding at the end the following:

“(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(A) such person is described in section 804(a)(2).

“(B) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(C) the location or apprehension of such person is within the officer’s official duties.”; and

(3) in subsection (d)(1)—

(A) by striking “or” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

“(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

“(E) such person is a person described in section 804(a)(2).”

(c) TITLE XVI AMENDMENTS.— Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and”;

(2) in clause (iii)(II)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI).”; and

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI).”; and

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

“(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is a person described in section 1611(e)(4)(A).”; and

(4) by adding at the end the following:

“(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 1611(e)(4)(A).

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”

(d) EFFECTIVE DATE.— The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO CONGRESS.— The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.— Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Secretary” and inserting the following: “A qualified organization may not collect a fee from

an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner”.

(b) TITLE XVI AMENDMENTS.— Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner”.

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.— Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10).”; and

(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10).”; and

(4) by inserting after paragraph (6) the following:

“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.

“(B) The total of the amount certified for payment to such individual or such individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(b) TITLE VIII AMENDMENT.— Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

“(I) LIABILITY FOR MISUSED AMOUNTS.—

“(1) IN GENERAL.— If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative

payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) LIMITATION.- The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(c) TITLE XVI AMENDMENTS.- Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further-

(1) in subparagraph (C)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

(2) by striking subparagraph (H) and inserting the following:

"(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(d) EFFECTIVE DATE.- The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.- Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended-

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) TITLE VIII AMENDMENTS.- Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended-

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.- In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments."

(c) TITLE XVI AMENDMENT.- Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(d) EFFECTIVE DATE.- The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.- Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

"(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to \$8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

"(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.- Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted."

(b) EFFECTIVE DATE.- The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.-

(1) CIVIL PENALTIES.- Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended-

(A) by striking "who" in the first sentence and inserting "who-";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to," and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading.

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.- Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended-

(A) by striking "who" the first place it appears and inserting "who-"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading.

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.- Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section,".

(c) CONFORMING AMENDMENTS.-

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) **EFFECTIVE DATE.-** The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners. Certain Other Inmates of Publicly Funded Institutions. Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.";

(5) by adding at the end of paragraph (1)(B) the following:

"(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that-

"(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

"(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

"(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual

benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that-

"(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

"(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related."; and

(6) in paragraph (3), by adding at the end the following:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that-

"(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties.".

(b) **CONFORMING AMENDMENTS TO TITLE XVI.-** Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended-

(1) in paragraph (4)-

(A) by redesignating subparagraphs (A) and

(B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(4)";

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed"; and

(D) by adding at the end the following:

"(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that-

"(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

"(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

"(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that-

"(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

"(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related."; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

"(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

(c) **CONFORMING AMENDMENT.-** Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed".

(d) **EFFECTIVE DATE.-** The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE, A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.-** Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended-

(1) in subsection (a), by adding at the end the following:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that-

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer-

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) **EFFECTIVE DATE.-** The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter,

may be considered for reinstatement only under such rules as the Commissioner may prescribe."

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor."

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.- Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended-

(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services" after "Health Care Financing Administration"; by striking "or Medicaid"; and inserting "Medicaid", "Death Benefits Update", "Federal Benefit Information", "Funeral Expenses", or "Final Supplemental Plan"; and by inserting "CMS" after "HCFA";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services" after "Health Care Financing Administration" each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services."

(b) EFFECTIVE DATE.- The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.- Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by-

(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment."

(b) EFFECTIVE DATE.- The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.- Section 208 of the Social Security Act (42 U.S.C. 408) is amended-

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

"(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

"(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in-

(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 205(j).

"(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

"(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual"; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.- Section 811 of the Social Security Act (42 U.S.C. 1011) is amended-

(1) by striking subsection (b) and inserting the following:

"(b) COURT ORDER FOR RESTITUTION.-

"(1) IN GENERAL.- Any Federal court, when sentencing a defendant convicted of an offense

under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in-

"(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

"(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 807(i).

"(2) RELATED PROVISIONS.- Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

"(3) STATED REASONS FOR NOT ORDERING RESTITUTION.- If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4) RECEIPT OF RESTITUTION PAYMENTS.-

"(A) IN GENERAL.- Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(B) PAYMENT TO THE INDIVIDUAL.- In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual."

(c) AMENDMENTS TO TITLE XVI.- Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended-

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in-

"(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

"(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 1631(a)(2).

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(B) In the case of funds paid to the Commissioner of Social Security pursuant to

paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual.";

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking "(1) If a person" and all that follows through "(2)".

(d) EFFECTIVE DATE.- The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) IN GENERAL.- Section 1147 of the Social Security Act (42 U.S.C. 1320b-17) is amended to read as follows:

"CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

"(a) IN GENERAL.- Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

"(b) LIMITATION APPLICABLE TO CURRENT BENEFITS.-

"(1) IN GENERAL.- In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due-

"(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

"(B) in the case of benefits under title XVI, by an amount greater than the lesser of-

"(i) the amount of the benefit payable to the person for that month; or

"(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

"(2) EXCEPTION.- Paragraph (1) shall not apply if-

"(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

"(B) the person so requests.

"(c) NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.- In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action-

"(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

"(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

"(d) INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.- Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

"(e) PROGRAMS DESCRIBED.- The programs described in this subsection are the following:

"(1) The old-age, survivors, and disability insurance benefits program under title II.

"(2) The special benefits for certain World War II veterans program under title VIII.

"(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66)."

(b) CONFORMING AMENDMENTS.-

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

"(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147."

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended-

(A) in subsection (a)(1)-

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking "any payment" and all that follows through "under this title" and inserting "any payment under this title"; and

(iii) by striking "; or" and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

"(e) CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.- For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147."

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b-18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended-

(A) in paragraph (1)(B)-

(i) by striking "excluding any other" and inserting "excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding"; and

(ii) by striking "50 percent of"; and

(B) by striking paragraph (6) and inserting the following:

"(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147."

(c) EFFECTIVE DATE.- The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.- Section 214 (42 U.S.C. 414) is amended-

(1) in subsection (a), by inserting before the period at the end the following: "; and who satisfies the criterion specified in subsection (c)";

(2) in subsection (b), by inserting before the period at the end the following: "; and who satisfies the criterion specified in subsection (c)"; and

(3) by adding at the end the following:

"(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national-

"(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

"(2) at the time any such quarters of coverage are earned-

"(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

"(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

"(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States."

(b) DISABILITY BENEFITS.- Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended-

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

"(C) if not a United States citizen or national-

"(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

"(ii) at the time any quarters of coverage are earned-

"(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

"(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

"(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States."

(c) EFFECTIVE DATE.- The amendments made by this section apply to benefit applications based on social security account numbers issued on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.- Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended-

(1) by inserting "; except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

(2) by adding at the end the following: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75."

(b) EFFECTIVE DATE.- The amendments made by this section shall apply with respect

to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) *IN GENERAL.*— Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "section 206(a)" and inserting "section 206";

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(C) by striking "paragraph (2) thereof" and inserting "such section";

(2) in subparagraph (A)(i)—

(A) by striking "in subparagraphs (A)(ii)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)"; and

(B) by striking "and" at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

"(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

"(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

"(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a)'; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

"(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

"(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

"(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

"(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

"(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the

amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

"(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

"(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

"(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws."

(b) *CONFORMING AMENDMENTS.*— Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "subsection (g)"; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "subsection (g)"; and

(B) in the matter following clause (ii), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "State";

(c) *EFFECTIVE DATE.*—

(1) *IN GENERAL.*— The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) *SUNSET.*— Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) *IN GENERAL.*— The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall develop and carry

out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) *STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.*— Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) *ASSESSMENT OF FEES.*—

(1) *IN GENERAL.*— The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) *DISPOSITION OF FEES.*— Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) *AUTHORIZATION OF APPROPRIATIONS.*— The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) *NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.*— Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of

the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) **REPORTS BY THE COMMISSIONER; TERMINATION.**

(1) **INTERIM REPORTS.**— On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) **TERMINATION DATE AND FINAL REPORT.**— The termination date of the demonstration project under this section is the date which is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) **STUDY.**

(1) **IN GENERAL.**— The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) **MATTERS TO BE STUDIED.**— In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance

benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) **CONSULTATION REQUIRED.**— The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) **REPORT.**— Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking "conducted under subsection (a)" and inserting "initiated under subsection (a) on or before December 17, 2005"; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005."

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(42 U.S.C. 401 et seq.)" and inserting "(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act."

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(f) **EXPENDITURES.**— Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII."

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) **FEDERAL WORK INCENTIVES OUTREACH PROGRAM.**

(1) **IN GENERAL.**— Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

"(2) **DISABLED BENEFICIARY.**— The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) **EFFECTIVE DATE.**— The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) **STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.**

(1) **DEFINITION OF DISABLED BENEFICIARY.**— Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

"(2) **DISABLED BENEFICIARY.**— The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under

section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) **ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.**— Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) **EFFECTIVE DATE.**— The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **IN GENERAL.**— Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”.

(b) **EFFECTIVE DATE.**— The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **GAO REPORT.**— Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) **BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.**— Section 1149(d) of the Social Security Act (42 U.S.C. 1320b-20(d)) is amended by striking “2004” and inserting “2009”.

(b) **PROTECTION AND ADVOCACY.**— Section 1150(h) of the Social Security Act (42 U.S.C. 1320b-21(h)) is amended by striking “2004” and inserting “2009”.

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) **IN GENERAL.**— Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**— The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

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

(1) in paragraph (1), by striking “section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(2) in paragraph (2), by striking “section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(3) in paragraph (3), by striking “paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)” and inserting “paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)”; and

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking “241(a)” and inserting “237(a)”.

(b) **TECHNICAL CORRECTIONS.**—

(1) **TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.**— Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking “deportation” each place it appears and inserting “removal”;

(B) by striking “deported” each place it appears and inserting “removed”; and

(C) in the heading, by striking “Deportation” and inserting “Removal”.

(2) **REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.**— Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting “or the Secretary of Homeland Security” after “the Attorney General” each place it appears.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**— The amendment made by (A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) **SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.**— The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) **REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.**— The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**— Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”; and

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”.

(b) **WIDOWERS.**— Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”; and

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death."

(c) **CONFORMING AMENDMENT.**— Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (g) of subsection (c) or clause (5) of subsection (5)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) **EFFECTIVE DATE.**— The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) **IN GENERAL.**— Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky, Louisiana," after "Illinois".

(b) **EFFECTIVE DATE.**— The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**— Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently."

(b) **EFFECTIVE DATE.**— The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **IN GENERAL.**— Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

"(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (C) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.

"(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

"(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

"(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments."

(b) CONFORMING AMENDMENTS.

(1) **WIFE'S INSURANCE BENEFITS.**— Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking "subsection (q) and paragraph (4) of this subsection" and inserting "subsections (k)(5) and (q)"; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) **HUSBAND'S INSURANCE BENEFITS.**— Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking "subsection (q) and paragraph (2) of this subsection" and inserting "subsections (k)(5) and (q)".

(3) **WIDOW'S INSURANCE BENEFITS.**— Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking "subsection (q), paragraph (7) of this subsection," and inserting "subsection (k)(5), subsection (q)."; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) **WIDOWER'S INSURANCE BENEFITS.**

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

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking "subsection (q), paragraph (2) of this subsection," and inserting "subsection (k)(5), subsection (q).";

(B) **CONFORMING AMENDMENTS.**

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by strik-

ing "paragraph (5)" and inserting "paragraph (4)".

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking "paragraph (6)" and "paragraph (5)" (in clauses (i) and (ii)) and inserting "paragraph (5)" and "paragraph (4)", respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking "or (f)(4)" each place it appears and inserting "or (f)(3)".

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking "or (f)(3)" and inserting "or (f)(2)".

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking "or (f)(4)" and inserting "or (f)(3)".

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking "and 202(f)(5)" and inserting "and 202(f)(4)".

(5) **MOTHER'S AND FATHER'S INSURANCE BENEFITS.**— Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking "Except as provided in paragraph (4) of this subsection, such" and inserting "Such"; and

(B) by striking paragraph (4).

(c) **EFFECTIVE DATE AND TRANSITIONAL RULE.**

(1) **IN GENERAL.**— The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) **TRANSITIONAL RULE.**— In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted "employment" as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) **INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.**— Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b-13(a)(3)) is amended—

(1) by striking "who" after "an individual" and inserting "who" before "has" in each of subparagraphs (A) and (B);

(2) by inserting "(i) who" after "(C)"; and

(3) by inserting before the period the following: "or (ii) with respect to whom the Commissioner has information that the pattern of

wages or self-employment income indicate a likelihood of noncovered employment".

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.— Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits."

(c) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.— Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended further by adding at the end the following:

"Disclosure to Governmental Employees of Effect of Noncovered Employment"

"(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute 'employment' as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

"(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality."

(d) EFFECTIVE DATES.— The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.— Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

"(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

"(1) \$624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) \$105,379,671 to the Federal Disability Insurance Trust Fund; and

"(3) \$173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain out-

standing obligations for deemed wage credits for 2000 and 2001."

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.— Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107-117.— Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting "and before 2002" after "1977".

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) IN GENERAL.— Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting "(i)" after "began"; and

(2) by adding after "such disability," the following: "or (ii) after the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity,".

(b) EFFECTIVE DATE.— The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.— Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting ", but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) EFFECTIVE DATE.— The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.— Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) AMENDMENT TO SOCIAL SECURITY ACT.— Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) CONFORMING AMENDMENT.— Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.— Section 211(a)(15) of the Social Security Act (42

U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(b) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.— Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.— Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;".

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.— Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) QUORUM RULES.— Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking "entire Board of Trustees" and inserting "Trustees then holding office".

(b) POWERS OF THE BOARD OF TRUSTEES.— Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

"(4) POWERS OF THE BOARD OF TRUSTEES.— The Board of Trustees shall—

"(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

"(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

"(C) adopt bylaws and other rules to govern its operations;

"(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

"(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

"(F) pay administrative expenses of the Trust from the assets of the Trust; and

"(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust."

(c) **STATE AND LOCAL TAXES.**- Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

"(6) **STATE AND LOCAL TAXES.**- The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust."

(d) **FUNDING.**- Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) **TRANSFERS.**- Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended-

(1) by inserting "or the Railroad Retirement Account" after "National Railroad Retirement Investment Trust" the second place it appears;

(2) by inserting "or the Railroad Retirement Board" after "National Railroad Retirement Investment Trust" the third place it appears;

(3) by inserting "(either directly or through a commingled account consisting only of such obligations)" after "United States" the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: "or to purchase such additional obligations".

(f) **CLERICAL AMENDMENTS.**- Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended-

(1) in subparagraph (B), by striking "trustee's" each place it appears and inserting "Trustee's";

(2) in subparagraph (C), by striking "trustee" and "trustees" each place it appears and inserting "Trustee" and "Trustees", respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking "trustee" and inserting "Trustee".

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.

(a) **INFREQUENT OR IRREGULAR INCOME.**- Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows-

"(3) in any calendar quarter, the first-

"(A) \$60 of unearned income, and

"(B) \$30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;";

(b) **INTEREST OR DIVIDEND INCOME.**- Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended-

(1) in paragraph (21), by striking "and" at the end;

(2) in paragraph (22), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(23) interest or dividend income from resources-

"(A) not excluded under section 1613(a), or

"(B) excluded pursuant to Federal law other than section 1613(a).";

(c) **EFFECTIVE DATE.**- The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) **UNDERPAYMENTS OF BENEFITS.**- Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended-

(1) by striking "6" and inserting "9"; and

(2) by striking "(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)".

(b) **ADVANCEABLE TAX CREDITS.**- Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

"(11) for the 9-month period beginning after the month in which received-

"(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

"(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);";

(c) **EFFECTIVE DATE.**- The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) **IN GENERAL.**- Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking "a child who" and inserting "under the age of 22 and".

(b) **EFFECTIVE DATE.**- The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NON-RECURRING INCOME.

(a) **IN GENERAL.**- Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

"(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

"(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be non-recurring income.";

(b) **DELETION OF OBSOLETE MATERIAL.**- Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

"(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.";

(c) **EFFECTIVE DATE.**- The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) **IN GENERAL.**- Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended-

(1) by inserting "and" after "citizen of the United States."; and

(2) by striking "; and who," and all that follows and inserting a period.

(b) **EFFECTIVE DATE.**- The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) **EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.**- Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking "or fellowship received for use in paying" and inserting "fellowship, or gift (or portion of a gift) used to pay".

(b) **EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.**- Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended-

(1) in paragraph (13), by striking "and" at the end;

(2) in paragraph (14), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.";

(c) **EFFECTIVE DATE.**- The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) **TREATMENT OF PAY AS RECEIVED WHEN EARNED.**- Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

"(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.";

(b) **EFFECTIVE DATE.**- The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

WELCOMING PUBLIC APOLOGIES BY PRESIDENTS OF SERBIA AND MONTENEGRO, AND REPUBLIC OF CROATIA

Mr. FRIST. Mr. President. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 378, S. Res. 237.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 237) welcoming the public apologies issued by the President of Serbia and Montenegro and the President of the Republic of Croatia and urging other leaders in the region to perform similar concrete acts of reconciliation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President. I ask unanimous consent that the resolution

In the Senate of the United States,

December 9, 2003.

Resolved, That the bill from the House of Representatives (H.R. 743) entitled “An Act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “So-*
3 *cial Security Protection Act of 2003”.*

1 (b) *TABLE OF CONTENTS.*—*The table of contents is as*
 2 *follows:*

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.*
Sec. 102. Oversight of representative payees.
Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
Sec. 105. Liability of representative payees for misused benefits.
Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.
Sec. 107. Survey of use of payments by representative payees.

Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.*

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.*
Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
Sec. 204. Requirements relating to offers to provide for a fee, a product or service available without charge from the Social Security Administration.
Sec. 205. Refusal to recognize certain individuals as claimant representatives.
Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.
Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
Sec. 209. Authority for judicial orders of restitution.
Sec. 210. Authority for cross-program recovery of benefit overpayments.
Sec. 211. Prohibition on payment of title II benefits to persons not authorized to work in the United States.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.*
Sec. 302. Temporary extension of attorney fee payment system to title XVI claims.

- Sec. 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.*
- Sec. 304. GAO study regarding the fee payment process for claimant representatives.*

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.*
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.*
- Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.*
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.*
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.*
- Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.*
- Sec. 407. Reauthorization of appropriations for certain work incentives programs.*

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.*
- Sec. 412. Nonpayment of benefits upon removal from the United States.*
- Sec. 413. Reinstatement of certain reporting requirements.*
- Sec. 414. Clarification of definitions regarding certain survivor benefits.*
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.*
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana.*
- Sec. 417. Compensation for the Social Security Advisory Board.*
- Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.*
- Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.*
- Sec. 420. Post-1956 Military Wage Credits.*
- Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.*

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.*
- Sec. 422. Technical correction relating to retirement benefits of ministers.*
- Sec. 423. Technical corrections relating to domestic employment.*
- Sec. 424. Technical corrections of outdated references.*
- Sec. 425. Technical correction respecting self-employment income in community property States.*
- Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.*

Subtitle D—Amendments Related to Title XVI

Sec. 430. *Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.*

Sec. 431. *Uniform 9-month resource exclusion periods.*

Sec. 432. *Elimination of certain restrictions on the application of the student earned income exclusion.*

Sec. 433. *Exception to retrospective monthly accounting for nonrecurring income.*

Sec. 434. *Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.*

Sec. 435. *Treatment of education-related income and resources.*

Sec. 436. *Monthly treatment of uniformed service compensation.*

1 **TITLE I—PROTECTION OF**
 2 **BENEFICIARIES**
 3 **Subtitle A—Representative Payees**

4 **SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY**
 5 **ORGANIZATIONAL REPRESENTATIVE PAYEES.**

6 (a) *TITLE II AMENDMENTS.—*

7 (1) *REISSUANCE OF BENEFITS.—Section*
 8 205(j)(5) *of the Social Security Act (42*
 9 *U.S.C. 405(j)(5)) is amended by inserting after the*
 10 *first sentence the following: “In any case in which a*
 11 *representative payee that—*

12 *“(A) is not an individual (regardless of whether*
 13 *it is a ‘qualified organization’ within the meaning of*
 14 *paragraph (4)(B)); or*

15 *“(B) is an individual who, for any month dur-*
 16 *ing a period when misuse occurs, serves 15 or more*
 17 *individuals who are beneficiaries under this title, title*
 18 *VIII, title XVI, or any combination of such titles;*

1 *misuses all or part of an individual's benefit paid to such*
2 *representative payee, the Commissioner of Social Security*
3 *shall certify for payment to the beneficiary or the bene-*
4 *ficiary's alternative representative payee an amount equal*
5 *to the amount of such benefit so misused. The provisions*
6 *of this paragraph are subject to the limitations of para-*
7 *graph (7)(B)."*

8 (2) *MISUSE OF BENEFITS DEFINED.*—Section
9 205(j) of such Act (42 U.S.C. 405(j)) is amended by
10 adding at the end the following:

11 “(8) *For purposes of this subsection, misuse of benefits*
12 *by a representative payee occurs in any case in which the*
13 *representative payee receives payment under this title for*
14 *the use and benefit of another person and converts such pay-*
15 *ment, or any part thereof, to a use other than for the use*
16 *and benefit of such other person. The Commissioner of So-*
17 *cial Security may prescribe by regulation the meaning of*
18 *the term ‘use and benefit’ for purposes of this paragraph.”.*

19 (b) *TITLE VIII AMENDMENTS.*—

20 (1) *REISSUANCE OF BENEFITS.*—Section 807(i)
21 of the Social Security Act (42 U.S.C. 1007(i)) is
22 amended further by inserting after the first sentence
23 the following: “*In any case in which a representative*
24 *payee that—*

25 “(A) *is not an individual; or*

1 “(B) is an individual who, for any month
2 during a period when misuse occurs, serves 15 or
3 more individuals who are beneficiaries under
4 this title, title II, title XVI, or any combination
5 of such titles;

6 misuses all or part of an individual’s benefit paid to
7 such representative payee, the Commissioner of Social
8 Security shall pay to the beneficiary or the bene-
9 ficiary’s alternative representative payee an amount
10 equal to the amount of such benefit so misused. The
11 provisions of this paragraph are subject to the limita-
12 tions of subsection (l)(2).”.

13 (2) MISUSE OF BENEFITS DEFINED.—Section
14 807 of such Act (42 U.S.C. 1007) is amended by add-
15 ing at the end the following:

16 “(j) MISUSE OF BENEFITS.—For purposes of this title,
17 misuse of benefits by a representative payee occurs in any
18 case in which the representative payee receives payment
19 under this title for the use and benefit of another person
20 under this title and converts such payment, or any part
21 thereof, to a use other than for the use and benefit of such
22 person. The Commissioner of Social Security may prescribe
23 by regulation the meaning of the term ‘use and benefit’ for
24 purposes of this subsection.”.

1 (3) *TECHNICAL AMENDMENT.*—Section 807(a) of
2 such Act (42 U.S.C. 1007(a)) is amended, in the first
3 sentence, by striking “for his or her benefit” and in-
4 serting “for his or her use and benefit”.

5 (c) *TITLE XVI AMENDMENTS.*—

6 (1) *REISSUANCE OF BENEFITS.*—Section
7 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E))
8 is amended by inserting after the first sentence the
9 following: “In any case in which a representative
10 payee that—

11 “(i) is not an individual (regardless of whether
12 it is a ‘qualified organization’ within the meaning of
13 subparagraph (D)(ii)); or

14 “(ii) is an individual who, for any month dur-
15 ing a period when misuse occurs, serves 15 or more
16 individuals who are beneficiaries under this title, title
17 II, title VIII, or any combination of such titles;
18 misuses all or part of an individual’s benefit paid to such
19 representative payee, the Commissioner of Social Security
20 shall pay to the beneficiary or the beneficiary’s alternative
21 representative payee an amount equal to the amount of such
22 benefit so misused. The provisions of this subparagraph are
23 subject to the limitations of subparagraph (H)(ii).”.

1 (2) *EXCLUSION OF REISSUED BENEFITS FROM*
2 *RESOURCES.*—Section 1613(a) of such Act (42
3 U.S.C. 1382b(a)) is amended—

4 (A) in paragraph (12), by striking “and”
5 at the end;

6 (B) in paragraph (13), by striking the pe-
7 riod and inserting “; and”; and

8 (C) by inserting after paragraph (13) the
9 following:

10 “(14) for the 9-month period beginning after the
11 month in which received, any amount received by
12 such individual (or spouse) or any other person whose
13 income is deemed to be included in such individual’s
14 (or spouse’s) income for purposes of this title as res-
15 titution for benefits under this title, title II, or title
16 VIII that a representative payee of such individual
17 (or spouse) or such other person under section 205(j),
18 807, or 1631(a)(2) has misused.”.

19 (3) *MISUSE OF BENEFITS DEFINED.*—Section
20 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A))
21 is amended by adding at the end the following:

22 “(iv) For purposes of this paragraph, misuse of bene-
23 fits by a representative payee occurs in any case in which
24 the representative payee receives payment under this title
25 for the use and benefit of another person and converts such

1 *payment, or any part thereof, to a use other than for the*
2 *use and benefit of such other person. The Commissioner of*
3 *Social Security may prescribe by regulation the meaning*
4 *of the term ‘use and benefit’ for purposes of this clause.”.*

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall apply to any case of benefit misuse by a rep-*
7 *resentative payee with respect to which the Commissioner*
8 *of Social Security makes the determination of misuse on*
9 *or after January 1, 1995.*

10 **SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.**

11 (a) *CERTIFICATION OF BONDING AND LICENSING RE-*
12 *QUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL*
13 *REPRESENTATIVE PAYEES.*—

14 (1) *TITLE II AMENDMENTS.*—*Section 205(j) of*
15 *the Social Security Act (42 U.S.C. 405(j)) is*
16 *amended—*

17 (A) *in paragraph (2)(C)(v), by striking “a*
18 *community-based nonprofit social service agency*
19 *licensed or bonded by the State” in subclause (I)*
20 *and inserting “a certified community-based non-*
21 *profit social service agency (as defined in para-*
22 *graph (9))”;*

23 (B) *in paragraph (3)(F), by striking “com-*
24 *munity-based nonprofit social service agencies”*
25 *and inserting “certified community-based non-*

1 *profit social service agencies (as defined in para-*
2 *graph (9))”;*

3 *(C) in paragraph (4)(B), by striking “any*
4 *community-based nonprofit social service agency*
5 *which is bonded or licensed in each State in*
6 *which it serves as a representative payee” and*
7 *inserting “any certified community-based non-*
8 *profit social service agency (as defined in para-*
9 *graph (9))”;* and

10 *(D) by adding after paragraph (8) (as*
11 *added by section 101(a)(2) of this Act) the fol-*
12 *lowing:*

13 *“(9) For purposes of this subsection, the term ‘certified*
14 *community-based nonprofit social service agency’ means a*
15 *community-based nonprofit social service agency which is*
16 *in compliance with requirements, under regulations which*
17 *shall be prescribed by the Commissioner, for annual certifi-*
18 *cation to the Commissioner that it is bonded in accordance*
19 *with requirements specified by the Commissioner and that*
20 *it is licensed in each State in which it serves as a represent-*
21 *ative payee (if licensing is available in the State) in accord-*
22 *ance with requirements specified by the Commissioner. Any*
23 *such annual certification shall include a copy of any inde-*
24 *pendent audit on the agency which may have been per-*
25 *formed since the previous certification.”.*

1 (2) *TITLE XVI AMENDMENTS.—Section*
 2 *1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is*
 3 *amended—*

4 (A) *in subparagraph (B)(vii), by striking*
 5 *“a community-based nonprofit social service*
 6 *agency licensed or bonded by the State” in sub-*
 7 *clause (I) and inserting “a certified community-*
 8 *based nonprofit social service agency (as defined*
 9 *in subparagraph (I))”;*

10 (B) *in subparagraph (D)(ii)—*

11 (i) *by striking “or any community-*
 12 *based” and all that follows through “in ac-*
 13 *cordance” in subclause (II) and inserting*
 14 *“or any certified community-based non-*
 15 *profit social service agency (as defined in*
 16 *subparagraph (I)), if the agency, in accord-*
 17 *ance”;*

18 (ii) *by redesignating items (aa) and*
 19 *(bb) as subclauses (I) and (II), respectively*
 20 *(and adjusting the margins accordingly);*
 21 *and*

22 (iii) *by striking “subclause (II)(bb)”*
 23 *and inserting “subclause (II)”;* *and*

24 (C) *by adding at the end the following:*

1 “(I) For purposes of this paragraph, the term ‘certified
2 community-based nonprofit social service agency’ means a
3 community-based nonprofit social service agency which is
4 in compliance with requirements, under regulations which
5 shall be prescribed by the Commissioner, for annual certifi-
6 cation to the Commissioner that it is bonded in accordance
7 with requirements specified by the Commissioner and that
8 it is licensed in each State in which it serves as a represent-
9 ative payee (if licensing is available in the State) in accord-
10 ance with requirements specified by the Commissioner. Any
11 such annual certification shall include a copy of any inde-
12 pendent audit on the agency which may have been per-
13 formed since the previous certification.”.

14 (3) *EFFECTIVE DATE.*—The amendments made
15 by this subsection shall take effect on the first day of
16 the thirteenth month beginning after the date of the
17 enactment of this Act.

18 (b) *PERIODIC ONSITE REVIEW.*—

19 (1) *TITLE II AMENDMENT.*—Section 205(j)(6) of
20 such Act (42 U.S.C. 405(j)(6)) is amended to read as
21 follows:

22 “(6)(A) In addition to such other reviews of represent-
23 ative payees as the Commissioner of Social Security may
24 otherwise conduct, the Commissioner shall provide for the
25 periodic onsite review of any person or agency located in

1 *the United States that receives the benefits payable under*
2 *this title (alone or in combination with benefits payable*
3 *under title VIII or title XVI) to another individual pursu-*
4 *ant to the appointment of such person or agency as a rep-*
5 *resentative payee under this subsection, section 807, or sec-*
6 *tion 1631(a)(2) in any case in which—*

7 “(i) *the representative payee is a person who*
8 *serves in that capacity with respect to 15 or more*
9 *such individuals;*

10 “(ii) *the representative payee is a certified com-*
11 *munity-based nonprofit social service agency (as de-*
12 *fined in paragraph (9) of this subsection or section*
13 *1631(a)(2)(I)); or*

14 “(iii) *the representative payee is an agency*
15 *(other than an agency described in clause (ii)) that*
16 *serves in that capacity with respect to 50 or more*
17 *such individuals.*

18 “(B) *Within 120 days after the end of each fiscal year,*
19 *the Commissioner shall submit to the Committee on Ways*
20 *and Means of the House of Representatives and the Com-*
21 *mittee on Finance of the Senate a report on the results of*
22 *periodic onsite reviews conducted during the fiscal year*
23 *pursuant to subparagraph (A) and of any other reviews of*
24 *representative payees conducted during such fiscal year in*
25 *connection with benefits under this title. Each such report*

1 shall describe in detail all problems identified in such re-
2 views and any corrective action taken or planned to be
3 taken to correct such problems, and shall include—

4 “(i) the number of such reviews;

5 “(ii) the results of such reviews;

6 “(iii) the number of cases in which the represent-
7 ative payee was changed and why;

8 “(iv) the number of cases involving the exercise
9 of expedited, targeted oversight of the representative
10 payee by the Commissioner conducted upon receipt of
11 an allegation of misuse of funds, failure to pay a ven-
12 dor, or a similar irregularity;

13 “(v) the number of cases discovered in which
14 there was a misuse of funds;

15 “(vi) how any such cases of misuse of funds were
16 dealt with by the Commissioner;

17 “(vii) the final disposition of such cases of mis-
18 use of funds, including any criminal penalties im-
19 posed; and

20 “(viii) such other information as the Commis-
21 sioner deems appropriate.”

22 (2) TITLE VIII AMENDMENT.—Section 807 of
23 such Act (as amended by section 101(b)(2) of this Act)
24 is amended further by adding at the end the fol-
25 lowing:

1 “(k) *PERIODIC ONSITE REVIEW.*—

2 “(1) *IN GENERAL.*—*In addition to such other re-*
3 *views of representative payees as the Commissioner of*
4 *Social Security may otherwise conduct, the Commis-*
5 *sioner may provide for the periodic onsite review of*
6 *any person or agency that receives the benefits pay-*
7 *able under this title (alone or in combination with*
8 *benefits payable under title II or title XVI) to another*
9 *individual pursuant to the appointment of such per-*
10 *son or agency as a representative payee under this*
11 *section, section 205(j), or section 1631(a)(2) in any*
12 *case in which—*

13 “(A) *the representative payee is a person*
14 *who serves in that capacity with respect to 15 or*
15 *more such individuals; or*

16 “(B) *the representative payee is an agency*
17 *that serves in that capacity with respect to 50 or*
18 *more such individuals.*

19 “(2) *REPORT.*—*Within 120 days after the end of*
20 *each fiscal year, the Commissioner shall submit to the*
21 *Committee on Ways and Means of the House of Rep-*
22 *resentatives and the Committee on Finance of the*
23 *Senate a report on the results of periodic onsite re-*
24 *views conducted during the fiscal year pursuant to*
25 *paragraph (1) and of any other reviews of representa-*

1 *tive payees conducted during such fiscal year in con-*
2 *nection with benefits under this title. Each such re-*
3 *port shall describe in detail all problems identified in*
4 *such reviews and any corrective action taken or*
5 *planned to be taken to correct such problems, and*
6 *shall include—*

7 *“(A) the number of such reviews;*

8 *“(B) the results of such reviews;*

9 *“(C) the number of cases in which the rep-*
10 *resentative payee was changed and why;*

11 *“(D) the number of cases involving the exer-*
12 *cise of expedited, targeted oversight of the rep-*
13 *resentative payee by the Commissioner conducted*
14 *upon receipt of an allegation of misuse of funds,*
15 *failure to pay a vendor, or a similar irregu-*
16 *larity;*

17 *“(E) the number of cases discovered in*
18 *which there was a misuse of funds;*

19 *“(F) how any such cases of misuse of funds*
20 *were dealt with by the Commissioner;*

21 *“(G) the final disposition of such cases of*
22 *misuse of funds, including any criminal pen-*
23 *alties imposed; and*

24 *“(H) such other information as the Com-*
25 *missioner deems appropriate.”*

1 (3) *TITLE XVI AMENDMENT.—Section*
2 *1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G))*
3 *is amended to read as follows:*

4 “(G)(i) *In addition to such other reviews of representa-*
5 *tive payees as the Commissioner of Social Security may*
6 *otherwise conduct, the Commissioner shall provide for the*
7 *periodic onsite review of any person or agency that receives*
8 *the benefits payable under this title (alone or in combina-*
9 *tion with benefits payable under title II or title VIII) to*
10 *another individual pursuant to the appointment of the per-*
11 *son or agency as a representative payee under this para-*
12 *graph, section 205(j), or section 807 in any case in which—*

13 “(I) *the representative payee is a person who*
14 *serves in that capacity with respect to 15 or more*
15 *such individuals;*

16 “(II) *the representative payee is a certified com-*
17 *munity-based nonprofit social service agency (as de-*
18 *fined in subparagraph (I) of this paragraph or sec-*
19 *tion 205(j)(9)); or*

20 “(III) *the representative payee is an agency*
21 *(other than an agency described in subclause (II))*
22 *that serves in that capacity with respect to 50 or*
23 *more such individuals.*

24 “(i) *Within 120 days after the end of each fiscal year,*
25 *the Commissioner shall submit to the Committee on Ways*

1 *and Means of the House of Representatives and the Com-*
2 *mittee on Finance of the Senate a report on the results of*
3 *periodic onsite reviews conducted during the fiscal year*
4 *pursuant to clause (i) and of any other reviews of represent-*
5 *ative payees conducted during such fiscal year in connec-*
6 *tion with benefits under this title. Each such report shall*
7 *describe in detail all problems identified in the reviews and*
8 *any corrective action taken or planned to be taken to correct*
9 *the problems, and shall include—*

10 “(I) the number of the reviews;

11 “(II) the results of such reviews;

12 “(III) the number of cases in which the rep-
13 representative payee was changed and why;

14 “(IV) the number of cases involving the exercise
15 of expedited, targeted oversight of the representative
16 payee by the Commissioner conducted upon receipt of
17 an allegation of misuse of funds, failure to pay a ven-
18 dor, or a similar irregularity;

19 “(V) the number of cases discovered in which
20 there was a misuse of funds;

21 “(VI) how any such cases of misuse of funds were
22 dealt with by the Commissioner;

23 “(VII) the final disposition of such cases of mis-
24 use of funds, including any criminal penalties im-
25 posed; and

1 “(VIII) such other information as the Commis-
2 sioner deems appropriate.”.

3 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**
4 **RESENTATIVE PAYEE OF PERSONS CON-**
5 **VICTED OF OFFENSES RESULTING IN IMPRIS-**
6 **ONMENT FOR MORE THAN 1 YEAR OR FLEE-**
7 **ING PROSECUTION, CUSTODY, OR CONFINE-**
8 **MENT.**

9 (a) *TITLE II AMENDMENTS.*—Section 205(j)(2) of the
10 *Social Security Act (42 U.S.C. 405(j)(2))* is amended—

11 (1) in subparagraph (B)(i)—

12 (A) by striking “and” at the end of sub-
13 clause (III);

14 (B) by redesignating subclause (IV) as sub-
15 clause (VI); and

16 (C) by inserting after subclause (III) the
17 following:

18 “(IV) obtain information concerning whether
19 such person has been convicted of any other offense
20 under Federal or State law which resulted in impris-
21 onment for more than 1 year,

22 “(V) obtain information concerning whether such
23 person is a person described in section
24 202(x)(1)(A)(iv), and”;

1 (2) in subparagraph (B), by adding at the end
2 the following:

3 “(iii) Notwithstanding the provisions of section 552a
4 of title 5, United States Code, or any other provision of
5 Federal or State law (other than section 6103 of the Inter-
6 nal Revenue Code of 1986 and section 1106(c) of this Act),
7 the Commissioner shall furnish any Federal, State, or local
8 law enforcement officer, upon the written request of the offi-
9 cer, with the current address, social security account num-
10 ber, and photograph (if applicable) of any person inves-
11 tigated under this paragraph, if the officer furnishes the
12 Commissioner with the name of such person and such other
13 identifying information as may reasonably be required by
14 the Commissioner to establish the unique identity of such
15 person, and notifies the Commissioner that—

16 “(I) such person is described in section
17 202(x)(1)(A)(iv),

18 “(II) such person has information that is nec-
19 essary for the officer to conduct the officer’s official
20 duties, and

21 “(III) the location or apprehension of such per-
22 son is within the officer’s official duties.”;

23 (3) in subparagraph (C)(i)(II)—

24 (A) by striking “subparagraph (B)(i)(IV),”
25 and inserting “subparagraph (B)(i)(VI)”;

1 (B) by striking “section
2 1631(a)(2)(B)(ii)(IV)” and inserting “section
3 1631(a)(2)(B)(ii)(VI)”;
4 (4) in subparagraph (C)(i)—

5 (A) by striking “or” at the end of subclause
6 (II);

7 (B) by striking the period at the end of sub-
8 clause (III) and inserting a comma; and

9 (C) by adding at the end the following:

10 “(IV) such person has previously been convicted
11 as described in subparagraph (B)(i)(IV), unless the
12 Commissioner determines that such certification
13 would be appropriate notwithstanding such convic-
14 tion, or

15 “(V) such person is person described in section
16 202(x)(1)(A)(iv).”.

17 (b) *TITLE VIII AMENDMENTS.*—Section 807 of such
18 *Act (42 U.S.C. 1007) is amended—*

19 (1) in subsection (b)(2)—

20 (A) by striking “and” at the end of sub-
21 paragraph (C);

22 (B) by redesignating subparagraph (D) as
23 subparagraph (F); and

24 (C) by inserting after subparagraph (C) the
25 following:

1 “(D) obtain information concerning whether
2 such person has been convicted of any other of-
3 fense under Federal or State law which resulted
4 in imprisonment for more than 1 year;

5 “(E) obtain information concerning whether
6 such person is a person described in section
7 804(a)(2); and”;

8 (2) in subsection (b), by adding at the end the
9 following:

10 “(3) Notwithstanding the provisions of section
11 552a of title 5, United States Code, or any other pro-
12 vision of Federal or State law (other than section
13 6103 of the Internal Revenue Code of 1986 and sec-
14 tion 1106(c) of this Act), the Commissioner shall fur-
15 nish any Federal, State, or local law enforcement offi-
16 cer, upon the written request of the officer, with the
17 current address, social security account number, and
18 photograph (if applicable) of any person investigated
19 under this subsection, if the officer furnishes the Com-
20 missioner with the name of such person and such
21 other identifying information as may reasonably be
22 required by the Commissioner to establish the unique
23 identity of such person, and notifies the Commis-
24 sioner that—

1 “(A) such person is described in section
2 804(a)(2),

3 “(B) such person has information that is
4 necessary for the officer to conduct the officer’s
5 official duties, and

6 “(C) the location or apprehension of such
7 person is within the officer’s official duties.”;
8 and

9 (3) in subsection (d)(1)—

10 (A) by striking “or” at the end of subpara-
11 graph (B);

12 (B) by striking the period at the end of sub-
13 paragraph (C) and inserting a semicolon; and

14 (C) by adding at the end the following:

15 “(D) such person has previously been con-
16 victed as described in subsection (b)(2)(D), un-
17 less the Commissioner determines that such pay-
18 ment would be appropriate notwithstanding such
19 conviction; or

20 “(E) such person is a person described in
21 section 804(a)(2).”.

22 (c) *TITLE XVI AMENDMENTS.*—Section 1631(a)(2)(B)
23 of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

24 (1) in clause (ii)—

1 (A) by striking “and” at the end of sub-
2 clause (III);

3 (B) by redesignating subclause (IV) as sub-
4 clause (VI); and

5 (C) by inserting after subclause (III) the
6 following:

7 “(IV) obtain information concerning whether the
8 person has been convicted of any other offense under
9 Federal or State law which resulted in imprisonment
10 for more than 1 year;

11 “(V) obtain information concerning whether such
12 person is a person described in section 1611(e)(4)(A);
13 and”;

14 (2) in clause (iii)(II)—

15 (A) by striking “clause (ii)(IV)” and insert-
16 ing “clause (ii)(VI)”; and

17 (B) by striking “section
18 205(j)(2)(B)(i)(IV)” and inserting “section
19 205(j)(2)(B)(i)(VI)”;

20 (3) in clause (iii)—

21 (A) by striking “or” at the end of subclause
22 (II);

23 (B) by striking the period at the end of sub-
24 clause (III) and inserting a semicolon; and

25 (C) by adding at the end the following:

1 “(IV) the person has previously been convicted as
2 described in clause (ii)(IV) of this subparagraph, un-
3 less the Commissioner determines that the payment
4 would be appropriate notwithstanding the conviction;
5 or

6 “(V) such person is a person described in section
7 1611(e)(4)(A).”;

8 (4) by adding at the end the following:

9 “(xiv) Notwithstanding the provisions of section 552a
10 of title 5, United States Code, or any other provision of
11 Federal or State law (other than section 6103 of the Inter-
12 nal Revenue Code of 1986 and section 1106(c) of this Act),
13 the Commissioner shall furnish any Federal, State, or local
14 law enforcement officer, upon the written request of the offi-
15 cer, with the current address, social security account num-
16 ber, and photograph (if applicable) of any person inves-
17 tigated under this subparagraph, if the officer furnishes the
18 Commissioner with the name of such person and such other
19 identifying information as may reasonably be required by
20 the Commissioner to establish the unique identity of such
21 person, and notifies the Commissioner that—

22 “(I) such person is described in section
23 1611(e)(4)(A),

1 “(II) such person has information that is nec-
2 essary for the officer to conduct the officer’s official
3 duties, and

4 “(III) the location or apprehension of such per-
5 son is within the officer’s official duties.”.

6 (d) *EFFECTIVE DATE.*—The amendments made by this
7 section shall take effect on the first day of the thirteenth
8 month beginning after the date of the enactment of this Act.

9 (e) *REPORT TO CONGRESS.*—The Commissioner of So-
10 cial Security, in consultation with the Inspector General
11 of the Social Security Administration, shall prepare a re-
12 port evaluating whether the existing procedures and reviews
13 for the qualification (including disqualification) of rep-
14 resentative payees are sufficient to enable the Commissioner
15 to protect benefits from being misused by representative
16 payees. The Commissioner shall submit the report to the
17 Committee on Ways and Means of the House of Representa-
18 tives and the Committee on Finance of the Senate no later
19 than 270 days after the date of the enactment of this Act.
20 The Commissioner shall include in such report any rec-
21 ommendations that the Commissioner considers appro-
22 priate.

1 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY**
2 **REPRESENTATIVE PAYEES.**

3 (a) *TITLE II AMENDMENTS.*—Section 205(j)(4)(A)(i)
4 of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is
5 amended—

6 (1) in the first sentence, by striking “A” and in-
7 serting “Except as provided in the next sentence, a”;
8 and

9 (2) in the second sentence, by striking “The Sec-
10 retary” and inserting the following: “A qualified or-
11 ganization may not collect a fee from an individual
12 for any month with respect to which the Commis-
13 sioner of Social Security or a court of competent ju-
14 risdiction has determined that the organization mis-
15 used all or part of the individual’s benefit, and any
16 amount so collected by the qualified organization for
17 such month shall be treated as a misused part of the
18 individual’s benefit for purposes of paragraphs (5)
19 and (6). The Commissioner”.

20 (b) *TITLE XVI AMENDMENTS.*—Section
21 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i))
22 is amended—

23 (1) in the first sentence, by striking “A” and in-
24 serting “Except as provided in the next sentence, a”;
25 and

1 (2) *in the second sentence, by striking “The*
 2 *Commissioner” and inserting the following: “A quali-*
 3 *fied organization may not collect a fee from an indi-*
 4 *vidual for any month with respect to which the Com-*
 5 *missioner of Social Security or a court of competent*
 6 *jurisdiction has determined that the organization*
 7 *misused all or part of the individual’s benefit, and*
 8 *any amount so collected by the qualified organization*
 9 *for such month shall be treated as a misused part of*
 10 *the individual’s benefit for purposes of subparagraphs*
 11 *(E) and (F). The Commissioner”.*

12 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 13 *section shall apply to any month involving benefit misuse*
 14 *by a representative payee in any case with respect to which*
 15 *the Commissioner of Social Security or a court of competent*
 16 *jurisdiction makes the determination of misuse after 180*
 17 *days after the date of the enactment of this Act.*

18 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MIS-**
 19 **USED BENEFITS.**

20 (a) *TITLE II AMENDMENTS.*—*Section 205(j) of the So-*
 21 *cial Security Act (42 U.S.C. 405(j)) (as amended by sec-*
 22 *tions 101 and 102) is amended further—*

23 (1) *by redesignating paragraphs (7), (8), and (9)*
 24 *as paragraphs (8), (9), and (10), respectively;*

1 (2) in paragraphs (2)(C)(v), (3)(F), and (4)(B),
2 by striking “paragraph (9)” and inserting “para-
3 graph (10)”;

4 (3) in paragraph (6)(A)(ii), by striking “para-
5 graph (9)” and inserting “paragraph (10)”; and

6 (4) by inserting after paragraph (6) the fol-
7 lowing:

8 “(7)(A) If the Commissioner of Social Security or a
9 court of competent jurisdiction determines that a represent-
10 ative payee that is not a Federal, State, or local government
11 agency has misused all or part of an individual’s benefit
12 that was paid to such representative payee under this sub-
13 section, the representative payee shall be liable for the
14 amount misused, and such amount (to the extent not repaid
15 by the representative payee) shall be treated as an overpay-
16 ment of benefits under this title to the representative payee
17 for all purposes of this Act and related laws pertaining to
18 the recovery of such overpayments. Subject to subparagraph
19 (B), upon recovering all or any part of such amount, the
20 Commissioner shall certify an amount equal to the recov-
21 ered amount for payment to such individual or such indi-
22 vidual’s alternative representative payee.

23 “(B) The total of the amount certified for payment to
24 such individual or such individual’s alternative representa-
25 tive payee under subparagraph (A) and the amount cer-

1 *tified for payment under paragraph (5) may not exceed the*
2 *total benefit amount misused by the representative payee*
3 *with respect to such individual.”.*

4 (b) *TITLE VIII AMENDMENT.—Section 807 of such Act*
5 *(as amended by section 102(b)(2)) is amended further by*
6 *adding at the end the following:*

7 “(l) *LIABILITY FOR MISUSED AMOUNTS.—*

8 “(1) *IN GENERAL.—If the Commissioner of So-*
9 *cial Security or a court of competent jurisdiction de-*
10 *termines that a representative payee that is not a*
11 *Federal, State, or local government agency has mis-*
12 *used all or part of a qualified individual’s benefit*
13 *that was paid to such representative payee under this*
14 *section, the representative payee shall be liable for the*
15 *amount misused, and such amount (to the extent not*
16 *repaid by the representative payee) shall be treated as*
17 *an overpayment of benefits under this title to the rep-*
18 *resentative payee for all purposes of this Act and re-*
19 *lated laws pertaining to the recovery of such overpay-*
20 *ments. Subject to paragraph (2), upon recovering all*
21 *or any part of such amount, the Commissioner shall*
22 *make payment of an amount equal to the recovered*
23 *amount to such qualified individual or such qualified*
24 *individual’s alternative representative payee.*

1 “(2) *LIMITATION.*—*The total of the amount paid*
2 *to such individual or such individual’s alternative*
3 *representative payee under paragraph (1) and the*
4 *amount paid under subsection (i) may not exceed the*
5 *total benefit amount misused by the representative*
6 *payee with respect to such individual.”*

7 (c) *TITLE XVI AMENDMENTS.*—*Section 1631(a)(2) of*
8 *such Act (42 U.S.C. 1383(a)(2)) (as amended by section*
9 *102(b)(3)) is amended further—*

10 (1) *in subparagraph (G)(i)(II), by striking “sec-*
11 *tion 205(j)(9)” and inserting “section 205(j)(10)”;*
12 *and*

13 (2) *by striking subparagraph (H) and inserting*
14 *the following:*

15 “(H)(i) *If the Commissioner of Social Security or a*
16 *court of competent jurisdiction determines that a represent-*
17 *ative payee that is not a Federal, State, or local government*
18 *agency has misused all or part of an individual’s benefit*
19 *that was paid to the representative payee under this para-*
20 *graph, the representative payee shall be liable for the*
21 *amount misused, and the amount (to the extent not repaid*
22 *by the representative payee) shall be treated as an overpay-*
23 *ment of benefits under this title to the representative payee*
24 *for all purposes of this Act and related laws pertaining to*
25 *the recovery of the overpayments. Subject to clause (ii),*

1 upon recovering all or any part of the amount, the Commis-
2 sioner shall make payment of an amount equal to the recov-
3 ered amount to such individual or such individual's alter-
4 native representative payee.

5 “(i) The total of the amount paid to such individual
6 or such individual's alternative representative payee under
7 clause (i) and the amount paid under subparagraph (E)
8 may not exceed the total benefit amount misused by the rep-
9 resentative payee with respect to such individual.”

10 (d) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to benefit misuse by a representative
12 payee in any case with respect to which the Commissioner
13 of Social Security or a court of competent jurisdiction
14 makes the determination of misuse after 180 days after the
15 date of the enactment of this Act.

16 **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT**
17 **PAYMENTS WHEN A REPRESENTATIVE PAYEE**
18 **FAILS TO PROVIDE REQUIRED ACCOUNTING.**

19 (a) *TITLE II AMENDMENTS.*—Section 205(j)(3) of the
20 Social Security Act (42 U.S.C. 405(j)(3)) (as amended by
21 sections 102(a)(1)(B) and 105(a)(2)) is amended—

- 22 (1) by redesignating subparagraphs (E) and (F)
23 as subparagraphs (F) and (G), respectively; and
24 (2) by inserting after subparagraph (D) the fol-
25 lowing:

1 “(E) In any case in which the person described in sub-
2 paragraph (A) or (D) receiving payments on behalf of an-
3 other fails to submit a report required by the Commissioner
4 of Social Security under subparagraph (A) or (D), the
5 Commissioner may, after furnishing notice to such person
6 and the individual entitled to such payment, require that
7 such person appear in person at a field office of the Social
8 Security Administration serving the area in which the indi-
9 vidual resides in order to receive such payments.”.

10 (b) TITLE VIII AMENDMENTS.—Section 807(h) of such
11 Act (42 U.S.C. 1007(h)) is amended—

12 (1) by redesignating paragraphs (3) and (4) as
13 paragraphs (4) and (5), respectively; and

14 (2) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) AUTHORITY TO REDIRECT DELIVERY OF
17 BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE
18 FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any
19 case in which the person described in paragraph (1)
20 or (2) receiving benefit payments on behalf of a quali-
21 fied individual fails to submit a report required by
22 the Commissioner of Social Security under paragraph
23 (1) or (2), the Commissioner may, after furnishing
24 notice to such person and the qualified individual, re-
25 quire that such person appear in person at a United

1 *States Government facility designated by the Social*
2 *Security Administration as serving the area in which*
3 *the qualified individual resides in order to receive*
4 *such benefit payments.”.*

5 (c) *TITLE XVI AMENDMENT.*—Section 1631(a)(2)(C)
6 of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by add-
7 ing at the end the following:

8 “(v) *In any case in which the person described in*
9 *clause (i) or (iv) receiving payments on behalf of another*
10 *fails to submit a report required by the Commissioner of*
11 *Social Security under clause (i) or (iv), the Commissioner*
12 *may, after furnishing notice to the person and the indi-*
13 *vidual entitled to the payment, require that such person ap-*
14 *pear in person at a field office of the Social Security Ad-*
15 *ministration serving the area in which the individual re-*
16 *sides in order to receive such payments.”.*

17 (d) *EFFECTIVE DATE.*—The amendments made by this
18 section shall take effect 180 days after the date of the enact-
19 ment of this Act.

20 **SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTA-**
21 **TIVE PAYEES.**

22 (a) *IN GENERAL.*—Section 1110 of the Social Security
23 Act (42 U.S.C. 1310) is amended by adding at the end the
24 following:

1 “(c)(1) *In addition to the amount otherwise appro-*
 2 *priated in any other law to carry out subsection (a) for*
 3 *fiscal year 2004, up to \$8,500,000 is authorized and appro-*
 4 *priated and shall be used by the Commissioner of Social*
 5 *Security under this subsection for purposes of conducting*
 6 *a statistically valid survey to determine how payments*
 7 *made to individuals, organizations, and State or local gov-*
 8 *ernment agencies that are representative payees for benefits*
 9 *paid under title II or XVI are being managed and used*
 10 *on behalf of the beneficiaries for whom such benefits are*
 11 *paid.*

12 “(2) *Not later than 18 months after the date of enact-*
 13 *ment of this subsection, the Commissioner of Social Secu-*
 14 *rity shall submit a report on the survey conducted in ac-*
 15 *cordance with paragraph (1) to the Committee on Ways*
 16 *and Means of the House of Representatives and the Com-*
 17 *mittee on Finance of the Senate.”.*

18 ***Subtitle B—Enforcement***

19 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**
 20 **SPECT TO WRONGFUL CONVERSIONS BY REP-**
 21 **RESENTATIVE PAYEES.**

22 (a) *IN GENERAL.*—*Section 1129(a) of the Social Secu-*
 23 *rity Act (42 U.S.C. 1320a–8) is amended by adding at the*
 24 *end the following:*

1 “(3) Any person (including an organization, agency,
 2 or other entity) who, having received, while acting in the
 3 capacity of a representative payee pursuant to section
 4 205(j), 807, or 1631(a)(2), a payment under title II, VIII,
 5 or XVI for the use and benefit of another individual, con-
 6 verts such payment, or any part thereof, to a use that such
 7 person knows or should know is other than for the use and
 8 benefit of such other individual shall be subject to, in addi-
 9 tion to any other penalties that may be prescribed by law,
 10 a civil money penalty of not more than \$5,000 for each
 11 such conversion. Such person shall also be subject to an as-
 12 sessment, in lieu of damages sustained by the United States
 13 resulting from the conversion, of not more than twice the
 14 amount of any payments so converted.”.

15 (b) *EFFECTIVE DATE*.—The amendment made by this
 16 section shall apply with respect to violations committed
 17 after the date of the enactment of this Act.

18 **TITLE II—PROGRAM** 19 **PROTECTIONS**

20 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**
 21 **SPECT TO WITHHOLDING OF MATERIAL**
 22 **FACTS.**

23 (a) *TREATMENT OF WITHHOLDING OF MATERIAL*
 24 *FACTS*.—

1 (1) *CIVIL PENALTIES.*—Section 1129(a)(1) of the
2 *Social Security Act* (42 U.S.C. 1320a–8(a)(1)) is
3 amended—

4 (A) by striking “who” in the first sentence
5 and inserting “who—”;

6 (B) by striking “makes” in the first sen-
7 tence and all that follows through “shall be sub-
8 ject to,” and inserting the following:

9 “(A) makes, or causes to be made, a statement or
10 representation of a material fact, for use in deter-
11 mining any initial or continuing right to or the
12 amount of monthly insurance benefits under title II
13 or benefits or payments under title VIII or XVI, that
14 the person knows or should know is false or mis-
15 leading,

16 “(B) makes such a statement or representation
17 for such use with knowing disregard for the truth, or

18 “(C) omits from a statement or representation
19 for such use, or otherwise withholds disclosure of, a
20 fact which the person knows or should know is mate-
21 rial to the determination of any initial or continuing
22 right to or the amount of monthly insurance benefits
23 under title II or benefits or payments under title VIII
24 or XVI, if the person knows, or should know, that the
25 statement or representation with such omission is

1 *false or misleading or that the withholding of such*
 2 *disclosure is misleading,*
 3 *shall be subject to,”;*

4 (C) by inserting “or each receipt of such
 5 benefits or payments while withholding disclo-
 6 sure of such fact” after “each such statement or
 7 representation” in the first sentence;

8 (D) by inserting “or because of such with-
 9 holding of disclosure of a material fact” after
 10 “because of such statement or representation” in
 11 the second sentence; and

12 (E) by inserting “or such a withholding of
 13 disclosure” after “such a statement or represen-
 14 tation” in the second sentence.

15 (2) *ADMINISTRATIVE PROCEDURE FOR IMPOSING*
 16 *PENALTIES.—Section 1129A(a) of such Act (42*
 17 *U.S.C. 1320a–8a(a)) is amended—*

18 (A) by striking “who” the first place it ap-
 19 pears and inserting “who—”; and

20 (B) by striking “makes” and all that follows
 21 through “shall be subject to,” and inserting the
 22 following:

23 “(1) makes, or causes to be made, a statement or
 24 representation of a material fact, for use in deter-
 25 mining any initial or continuing right to or the

1 amount of monthly insurance benefits under title II
2 or benefits or payments under title XVI that the per-
3 son knows or should know is false or misleading,

4 “(2) makes such a statement or representation
5 for such use with knowing disregard for the truth, or

6 “(3) omits from a statement or representation for
7 such use, or otherwise withholds disclosure of, a fact
8 which the person knows or should know is material
9 to the determination of any initial or continuing
10 right to or the amount of monthly insurance benefits
11 under title II or benefits or payments under title XVI,
12 if the person knows, or should know, that the state-
13 ment or representation with such omission is false or
14 misleading or that the withholding of such disclosure
15 is misleading,

16 shall be subject to.”

17 (b) CLARIFICATION OF TREATMENT OF RECOVERED
18 AMOUNTS.—Section 1129(e)(2)(B) of such Act (42
19 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the
20 case of amounts recovered arising out of a determination
21 relating to title VIII or XVI,” and inserting “In the case
22 of any other amounts recovered under this section,”.

23 (c) CONFORMING AMENDMENTS.—

1 (1) Section 1129(b)(3)(A) of such Act (42
2 U.S.C. 1320a-8(b)(3)(A)) is amended by striking
3 “charging fraud or false statements”.

4 (2) Section 1129(c)(1) of such Act (42
5 U.S.C. 1320a-8(c)(1)) is amended by striking “and
6 representations” and inserting “, representations, or
7 actions”.

8 (3) Section 1129(e)(1)(A) of such Act (42
9 U.S.C. 1320a-8(e)(1)(A)) is amended by striking
10 “statement or representation referred to in subsection
11 (a) was made” and inserting “violation occurred”.

12 (d) *EFFECTIVE DATE.*—The amendments made by this
13 section shall apply with respect to violations committed
14 after the date on which the Commissioner of Social Security
15 implements the centralized computer file described in sec-
16 tion 202.

17 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**
18 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**
19 **MISSION OF REPORTS OF CHANGES IN WORK**
20 **OR EARNINGS STATUS OF DISABLED BENE-**
21 **FICIARIES.**

22 *Effective as soon as possible, but not later than 1 year*
23 *after the date of the enactment of this Act, until such time*
24 *as the Commissioner of Social Security implements a cen-*
25 *tralized computer file recording the date of the submission*

1 of information by a disabled beneficiary (or representative)
 2 regarding a change in the beneficiary's work or earnings
 3 status, the Commissioner shall issue a receipt to the disabled
 4 beneficiary (or representative) each time he or she submits
 5 documentation, or otherwise reports to the Commissioner,
 6 on a change in such status.

7 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**
 8 **ING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBA-**
 9 **MENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.**
 10

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

13 (1) in the heading, by striking “Prisoners” and
 14 all that follows and inserting the following: “Prisoners,
 15 Certain Other Inmates of Publicly Funded Institutions,
 16 Fugitives, Probationers, and Parolees”;

17 (2) in paragraph (1)(A)(ii)(IV), by striking “or”
 18 at the end;

19 (3) in paragraph (1)(A)(iii), by striking the pe-
 20 riod at the end and inserting a comma;

21 (4) by inserting after paragraph (1)(A)(iii) the
 22 following:

23 “(iv) is fleeing to avoid prosecution, or custody
 24 or confinement after conviction, under the laws of the
 25 place from which the person flees, for a crime, or an

1 *attempt to commit a crime, which is a felony under*
2 *the laws of the place from which the person flees, or,*
3 *in jurisdictions that do not define crimes as felonies,*
4 *is punishable by death or imprisonment for a term*
5 *exceeding 1 year regardless of the actual sentence im-*
6 *posed, or*

7 *“(v) is violating a condition of probation or pa-*
8 *role imposed under Federal or State law.”;*

9 *(5) by adding at the end of paragraph (1)(B) the*
10 *following:*

11 *“(iii) Notwithstanding subparagraph (A), the Com-*
12 *missioner shall, for good cause shown, pay the individual*
13 *benefits that have been withheld or would otherwise be with-*
14 *held pursuant to clause (iv) or (v) of subparagraph (A) if*
15 *the Commissioner determines that—*

16 *“(I) a court of competent jurisdiction has found*
17 *the individual not guilty of the criminal offense, dis-*
18 *missed the charges relating to the criminal offense,*
19 *vacated the warrant for arrest of the individual for*
20 *the criminal offense, or issued any similar exon-*
21 *erating order (or taken similar exonerating action),*
22 *or*

23 *“(II) the individual was erroneously implicated*
24 *in connection with the criminal offense by reason of*
25 *identity fraud.*

1 “(iv) Notwithstanding subparagraph (A), the Commis-
2 sioner may, for good cause shown based on mitigating cir-
3 cumstances, pay the individual benefits that have been
4 withheld or would otherwise be withheld pursuant to clause
5 (iv) or (v) of subparagraph (A) if the Commissioner deter-
6 mines that—

7 “(I) the offense described in clause (iv) or under-
8 lying the imposition of the probation or parole de-
9 scribed in clause (v) was nonviolent and not drug-re-
10 lated, and

11 “(II) in the case of an individual from whom
12 benefits have been withheld or otherwise would be
13 withheld pursuant to subparagraph (A)(v), the action
14 that resulted in the violation of a condition of proba-
15 tion or parole was nonviolent and not drug-related.”;
16 and

17 (6) in paragraph (3), by adding at the end the
18 following:

19 “(C) Notwithstanding the provisions of section 552a
20 of title 5, United States Code, or any other provision of
21 Federal or State law (other than section 6103 of the Inter-
22 nal Revenue Code of 1986 and section 1106(c) of this Act),
23 the Commissioner shall furnish any Federal, State, or local
24 law enforcement officer, upon the written request of the offi-
25 cer, with the current address, Social Security number, and

1 *photograph (if applicable) of any beneficiary under this*
2 *title, if the officer furnishes the Commissioner with the*
3 *name of the beneficiary, and other identifying information*
4 *as reasonably required by the Commissioner to establish the*
5 *unique identity of the beneficiary, and notifies the Commis-*
6 *sioner that—*

7 “(i) the beneficiary is described in clause (iv) or
8 (v) of paragraph (1)(A); and

9 “(ii) the location or apprehension of the bene-
10 ficiary is within the officer’s official duties.”.

11 (b) *CONFORMING AMENDMENTS TO TITLE XVI.—Sec-*
12 *tion 1611(e) of the Social Security Act (42 U.S.C. 1382(e))*
13 *is amended—*

14 (1) *in paragraph (4)—*

15 (A) *by redesignating subparagraphs (A)*
16 *and (B) as clauses (i) and (ii), respectively;*

17 (B) *by inserting “(A)” after “(4)”;*

18 (C) *in clause (i) of subparagraph (A) (as*
19 *redesignated by subparagraph (A)), by striking*
20 *“or which, in the case of the State of*
21 *New Jersey, is a high misdemeanor under the*
22 *laws of such State” and inserting “or, in juris-*
23 *dictions that do not define crimes as felonies, is*
24 *punishable by death or imprisonment for a term*

1 *exceeding 1 year regardless of the actual sentence*
2 *imposed”;* and

3 *(D) by adding at the end the following:*

4 *“(B) Notwithstanding subparagraph (A), the Commis-*
5 *sioner shall, for good cause shown, treat the person referred*
6 *to in subparagraph (A) as an eligible individual or eligible*
7 *spouse if the Commissioner determines that—*

8 *“(i) a court of competent jurisdiction has found*
9 *the person not guilty of the criminal offense, dis-*
10 *missed the charges relating to the criminal offense,*
11 *vacated the warrant for arrest of the person for the*
12 *criminal offense, or issued any similar exonerating*
13 *order (or taken similar exonerating action), or*

14 *“(ii) the person was erroneously implicated in*
15 *connection with the criminal offense by reason of*
16 *identity fraud.*

17 *“(C) Notwithstanding subparagraph (A), the Commis-*
18 *sioner may, for good cause shown based on mitigating cir-*
19 *cumstances, treat the person referred to in subparagraph*
20 *(A) as an eligible individual or eligible spouse if the Com-*
21 *missioner determines that—*

22 *“(i) the offense described in subparagraph (A)(i)*
23 *or underlying the imposition of the probation or pa-*
24 *role described in subparagraph (A)(ii) was nonviolent*
25 *and not drug-related, and*

1 “(ii) in the case of a person who is not consid-
2 ered an eligible individual or eligible spouse pursuant
3 to subparagraph (A)(ii), the action that resulted in
4 the violation of a condition of probation or parole
5 was nonviolent and not drug-related.”; and

6 (2) in paragraph (5), by striking subparagraphs
7 (A) and (B) and inserting the following:

8 “(A) the recipient is described in clause (i) or
9 (ii) of paragraph (4)(A); and

10 “(B) the location or apprehension of the recipi-
11 ent is within the officer’s official duties.”.

12 (c) *CONFORMING AMENDMENT.*—Section 804(a)(2) of
13 the Social Security Act (42 U.S.C. 1004(a)(2)) is amended
14 by striking “or which, in the case of the State of New Jersey,
15 is a high misdemeanor under the laws of such State” and
16 inserting “or, in jurisdictions that do not define crimes as
17 felonies, is punishable by death or imprisonment for a term
18 exceeding 1 year regardless of the actual sentence imposed”.

19 (d) *EFFECTIVE DATE.*—The amendments made by this
20 section shall take effect on the first day of the first month
21 that begins on or after the date that is 9 months after the
22 date of enactment of this Act.

1 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**
2 **VIDE FOR A FEE, A PRODUCT OR SERVICE**
3 **AVAILABLE WITHOUT CHARGE FROM THE SO-**
4 **CIAL SECURITY ADMINISTRATION.**

5 (a) *IN GENERAL.*—Section 1140 of the Social Security
6 Act (42 U.S.C. 1320b–10) is amended—

7 (1) *in subsection (a), by adding at the end the*
8 *following:*

9 “(4)(A) *No person shall offer, for a fee, to assist an*
10 *individual to obtain a product or service that the person*
11 *knows or should know is provided free of charge by the So-*
12 *cial Security Administration unless, at the time the offer*
13 *is made, the person provides to the individual to whom the*
14 *offer is tendered a notice that—*

15 “(i) *explains that the product or service is avail-*
16 *able free of charge from the Social Security Adminis-*
17 *tration, and*

18 “(ii) *complies with standards prescribed by the*
19 *Commissioner of Social Security respecting the con-*
20 *tent of such notice and its placement, visibility, and*
21 *legibility.*

22 “(B) *Subparagraph (A) shall not apply to any offer—*

23 “(i) *to serve as a claimant representative in con-*
24 *nection with a claim arising under title II, title VIII,*
25 *or title XVI; or*

1 “(ii) to prepare, or assist in the preparation of,
2 an individual’s plan for achieving self-support under
3 title XVI.”; and

4 (2) in the heading, by striking “PROHIBITION OF
5 MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-
6 ERENCE” and inserting “PROHIBITIONS RELATING TO
7 REFERENCES”.

8 (b) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to offers of assistance made after the
10 sixth month ending after the Commissioner of Social Secu-
11 rity promulgates final regulations prescribing the stand-
12 ards applicable to the notice required to be provided in con-
13 nection with such offer. The Commissioner shall promul-
14 gate such final regulations within 1 year after the date of
15 the enactment of this Act.

16 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**
17 **AS CLAIMANT REPRESENTATIVES.**

18 Section 206(a)(1) of the Social Security Act (42
19 U.S.C. 406(a)(1)) is amended by inserting after the second
20 sentence the following: “Notwithstanding the preceding sen-
21 tences, the Commissioner, after due notice and opportunity
22 for hearing, (A) may refuse to recognize as a representative,
23 and may disqualify a representative already recognized,
24 any attorney who has been disbarred or suspended from any
25 court or bar to which he or she was previously admitted

1 to practice or who has been disqualified from participating
 2 in or appearing before any Federal program or agency, and
 3 (B) may refuse to recognize, and may disqualify, as a non-
 4 attorney representative any attorney who has been dis-
 5 barred or suspended from any court or bar to which he or
 6 she was previously admitted to practice. A representative
 7 who has been disqualified or suspended pursuant to this sec-
 8 tion from appearing before the Social Security Administra-
 9 tion as a result of collecting or receiving a fee in excess
 10 of the amount authorized shall be barred from appearing
 11 before the Social Security Administration as a representa-
 12 tive until full restitution is made to the claimant and,
 13 thereafter, may be considered for reinstatement only under
 14 such rules as the Commissioner may prescribe.”.

15 **SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE**
 16 **INTERFERENCE WITH ADMINISTRATION OF**
 17 **SOCIAL SECURITY ACT.**

18 Part A of title XI of the Social Security Act (42
 19 U.S.C. 1301 et seq.) is amended by inserting after section
 20 1129A the following:

21 “ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF
 22 SOCIAL SECURITY ACT

23 “SEC. 1129B. Whoever corruptly or by force or threats
 24 of force (including any threatening letter or communica-
 25 tion) attempts to intimidate or impede any officer, em-
 26 ployee, or contractor of the Social Security Administration

1 *(including any State employee of a disability determina-*
 2 *tion service or any other individual designated by the Com-*
 3 *missioner of Social Security) acting in an official capacity*
 4 *to carry out a duty under this Act, or in any other way*
 5 *corruptly or by force or threats of force (including any*
 6 *threatening letter or communication) obstructs or impedes,*
 7 *or attempts to obstruct or impede, the due administration*
 8 *of this Act, shall be fined not more than \$5,000, imprisoned*
 9 *not more than 3 years, or both, except that if the offense*
 10 *is committed only by threats of force, the person shall be*
 11 *fined not more than \$3,000, imprisoned not more than 1*
 12 *year, or both. In this subsection, the term ‘threats of force’*
 13 *means threats of harm to the officer or employee of the*
 14 *United States or to a contractor of the Social Security Ad-*
 15 *ministration, or to a member of the family of such an officer*
 16 *or employee or contractor.”.*

17 **SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**
 18 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

19 (a) *IN GENERAL.*—Section 1140(a)(1) of the Social Se-
 20 *curity Act (42 U.S.C. 1320b–10(a)(1)) is amended—*

21 (1) *in subparagraph (A), by inserting “‘Centers*
 22 *for Medicare & Medicaid Services’,” after “‘Health*
 23 *Care Financing Administration’,”, by striking “or*
 24 *‘Medicaid’,” and inserting “‘Medicaid’, ‘Death Bene-*
 25 *fits Update’, ‘Federal Benefit Information’, ‘Funeral*

1 *Expenses', or 'Final Supplemental Plan',*" and by in-
2 serting "'CMS'," after "'HCFA,'";

3 (2) in subparagraph (B), by inserting "Centers
4 for Medicare & Medicaid Services," after "Health
5 Care Financing Administration," each place it ap-
6 pears; and

7 (3) in the matter following subparagraph (B), by
8 striking "the Health Care Financing Administra-
9 tion," each place it appears and inserting "the Cen-
10 ters for Medicare & Medicaid Services,".

11 (b) *EFFECTIVE DATE.*—The amendments made by this
12 section shall apply to items sent after 180 days after the
13 date of the enactment of this Act.

14 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**
15 **TRIAL WORK PERIOD UPON CONVICTION OF**
16 **FRAUDULENT CONCEALMENT OF WORK AC-**
17 **TIVITY.**

18 (a) *IN GENERAL.*—Section 222(c) of the Social Secu-
19 rity Act (42 U.S.C. 422(c)) is amended by adding at the
20 end the following:

21 “(5) Upon conviction by a Federal court that an indi-
22 vidual has fraudulently concealed work activity during a
23 period of trial work from the Commissioner of Social Secu-
24 rity by—

1 “(A) providing false information to the Commis-
2 sioner of Social Security as to whether the individual
3 had earnings in or for a particular period, or as to
4 the amount thereof;

5 “(B) receiving disability insurance benefits
6 under this title while engaging in work activity under
7 another identity, including under another social secu-
8 rity account number or a number purporting to be a
9 social security account number; or

10 “(C) taking other actions to conceal work activ-
11 ity with an intent fraudulently to secure payment in
12 a greater amount than is due or when no payment
13 is authorized,

14 no benefit shall be payable to such individual under this
15 title with respect to a period of disability for any month
16 before such conviction during which the individual rendered
17 services during the period of trial work with respect to
18 which the fraudulently concealed work activity occurred,
19 and amounts otherwise due under this title as restitution,
20 penalties, assessments, fines, or other repayments shall in
21 all cases be in addition to any amounts for which such indi-
22 vidual is liable as overpayments by reason of such conceal-
23 ment.”.

1 “(A) Any individual who suffers a financial loss
2 as a result of the defendant’s violation of subsection
3 (a).

4 “(B) The Commissioner of Social Security, to the
5 extent that the defendant’s violation of subsection (a)
6 results in—

7 “(i) the Commissioner of Social Security
8 making a benefit payment that should not have
9 been made; or

10 “(ii) an individual suffering a financial
11 loss due to the defendant’s violation of subsection
12 (a) in his or her capacity as the individual’s
13 representative payee appointed pursuant to sec-
14 tion 205(j).

15 “(5)(A) Except as provided in subparagraph (B),
16 funds paid to the Commissioner of Social Security as res-
17 titution pursuant to a court order shall be deposited in the
18 Federal Old-Age and Survivors Insurance Trust Fund, or
19 the Federal Disability Insurance Trust Fund, as appro-
20 priate.

21 “(B) In the case of funds paid to the Commissioner
22 of Social Security pursuant to paragraph (4)(B)(ii), the
23 Commissioner of Social Security shall certify for payment
24 to the individual described in such paragraph an amount
25 equal to the lesser of the amount of the funds so paid or

1 *the individual's outstanding financial loss, except that such*
2 *amount may be reduced by the amount of any overpay-*
3 *ments of benefits owed under this title, title VIII, or title*
4 *XVI by the individual.”; and*

5 (3) *by amending subsection (c) (as redesignated*
6 *by paragraph (1)), by striking the second sentence.*

7 (b) *AMENDMENTS TO TITLE VIII.—Section 811 of the*
8 *Social Security Act (42 U.S.C. 1011) is amended—*

9 (1) *by striking subsection (b) and inserting the*
10 *following:*

11 “(b) *COURT ORDER FOR RESTITUTION.—*

12 “(1) *IN GENERAL.—Any Federal court, when*
13 *sentencing a defendant convicted of an offense under*
14 *subsection (a), may order, in addition to or in lieu*
15 *of any other penalty authorized by law, that the de-*
16 *fendant make restitution to the Commissioner of So-*
17 *cial Security, in any case in which such offense re-*
18 *sults in—*

19 “(A) *the Commissioner of Social Security*
20 *making a benefit payment that should not have*
21 *been made, or*

22 “(B) *an individual suffering a financial*
23 *loss due to the defendant's violation of subsection*
24 *(a) in his or her capacity as the individual's*

1 *representative payee appointed pursuant to sec-*
2 *tion 807(i).*

3 “(2) *RELATED PROVISIONS.*—Sections 3612,
4 3663, and 3664 of title 18, United States Code, shall
5 *apply with respect to the issuance and enforcement of*
6 *orders of restitution under this subsection. In so ap-*
7 *plying such sections, the Commissioner of Social Se-*
8 *curity shall be considered the victim.*

9 “(3) *STATED REASONS FOR NOT ORDERING RES-*
10 *TITUTION.*—*If the court does not order restitution, or*
11 *orders only partial restitution, under this subsection,*
12 *the court shall state on the record the reasons therefor.*

13 “(4) *RECEIPT OF RESTITUTION PAYMENTS.*—

14 “(A) *IN GENERAL.*—*Except as provided in*
15 *subparagraph (B), funds paid to the Commis-*
16 *sioner of Social Security as restitution pursuant*
17 *to a court order shall be deposited as miscella-*
18 *neous receipts in the general fund of the Treas-*
19 *ury.*

20 “(B) *PAYMENT TO THE INDIVIDUAL.*—*In the*
21 *case of funds paid to the Commissioner of Social*
22 *Security pursuant to paragraph (1)(B), the*
23 *Commissioner of Social Security shall certify for*
24 *payment to the individual described in such*
25 *paragraph an amount equal to the lesser of the*

1 *amount of the funds so paid or the individual's*
2 *outstanding financial loss as described in such*
3 *paragraph, except that such amount may be re-*
4 *duced by any overpayment of benefits owed*
5 *under this title, title II, or title XVI by the indi-*
6 *vidual."*

7 (c) *AMENDMENTS TO TITLE XVI.—Section 1632 of the*
8 *Social Security Act (42 U.S.C. 1383a) is amended—*

9 (1) *by redesignating subsection (b) as subsection*
10 (i); *and*

11 (2) *by inserting after subsection (a) the fol-*
12 *lowing:*

13 “(b)(1) *Any Federal court, when sentencing a defend-*
14 *ant convicted of an offense under subsection (a), may order,*
15 *in addition to or in lieu of any other penalty authorized*
16 *by law, that the defendant make restitution to the Commis-*
17 *sioner of Social Security, in any case in which such offense*
18 *results in—*

19 “(A) *the Commissioner of Social Security mak-*
20 *ing a benefit payment that should not have been*
21 *made, or*

22 “(B) *an individual suffering a financial loss due*
23 *to the defendant's violation of subsection (a) in his or*
24 *her capacity as the individual's representative payee*
25 *appointed pursuant to section 1631(a)(2).*

1 “(2) Sections 3612, 3663, and 3664 of title 18, United
2 States Code, shall apply with respect to the issuance and
3 enforcement of orders of restitution under this subsection.
4 In so applying such sections, the Commissioner of Social
5 Security shall be considered the victim.

6 “(3) If the court does not order restitution, or orders
7 only partial restitution, under this subsection, the court
8 shall state on the record the reasons therefor.

9 “(4)(A) Except as provided in subparagraph (B),
10 funds paid to the Commissioner of Social Security as res-
11 titution pursuant to a court order shall be deposited as mis-
12 cellaneous receipts in the general fund of the Treasury.

13 “(B) In the case of funds paid to the Commissioner
14 of Social Security pursuant to paragraph (1)(B), the Com-
15 missioner of Social Security shall certify for payment to
16 the individual described in such paragraph an amount
17 equal to the lesser of the amount of the funds so paid or
18 the individual’s outstanding financial loss as described in
19 such paragraph, except that such amount may be reduced
20 by any overpayment of benefits owed under this title, title
21 II, or title VIII by the individual.”; and

22 (3) by amending subsection (c) (as redesignated
23 by paragraph (1)) by striking “(1) If a person” and
24 all that follows through “(2)”.

1 (d) *EFFECTIVE DATE.*—The amendments made by
 2 subsections (a), (b), and (c) shall apply with respect to vio-
 3 lations occurring on or after the date of enactment of this
 4 Act.

5 **SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF**
 6 **BENEFIT OVERPAYMENTS.**

7 (a) *IN GENERAL.*—Section 1147 of the Social Security
 8 Act (42 U.S.C. 1320b-17) is amended to read as follows:

9 “CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM
 10 BENEFITS

11 “(a) *IN GENERAL.*—Subject to subsection (b), whenever
 12 the Commissioner of Social Security determines that more
 13 than the correct amount of any payment has been made
 14 to a person under a program described in subsection (e),
 15 the Commissioner of Social Security may recover the
 16 amount incorrectly paid by decreasing any amount which
 17 is payable to such person under any other program speci-
 18 fied in that subsection.

19 “(b) *LIMITATION APPLICABLE TO CURRENT BENE-*
 20 *FITS.*—

21 “(1) *IN GENERAL.*—In carrying out subsection
 22 (a), the Commissioner of Social Security may not de-
 23 crease the monthly amount payable to an individual
 24 under a program described in subsection (e) that is
 25 paid when regularly due—

1 “(A) in the case of benefits under title II or
2 VIII, by more than 10 percent of the amount of
3 the benefit payable to the person for that month
4 under such title; and

5 “(B) in the case of benefits under title XVI,
6 by an amount greater than the lesser of—

7 “(i) the amount of the benefit payable
8 to the person for that month; or

9 “(ii) an amount equal to 10 percent of
10 the person’s income for that month (includ-
11 ing such monthly benefit but excluding pay-
12 ments under title II when recovery is also
13 made from title II payments and excluding
14 income excluded pursuant to section
15 1612(b)).

16 “(2) *EXCEPTION.*—Paragraph (1) shall not
17 apply if—

18 “(A) the person or the spouse of the person
19 was involved in willful misrepresentation or con-
20 cealment of material information in connection
21 with the amount incorrectly paid; or

22 “(B) the person so requests.

23 “(c) *NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT*
24 *UNDER TITLE VIII OR XVI.*—In any case in which the
25 Commissioner of Social Security takes action in accordance

1 *with subsection (a) to recover an amount incorrectly paid*
2 *to any person, neither that person, nor (with respect to the*
3 *program described in subsection (e)(3)) any individual*
4 *whose eligibility for benefits under such program or whose*
5 *amount of such benefits, is determined by considering any*
6 *part of that person's income, shall, as a result of such*
7 *action—*

8 “(1) *become eligible for benefits under the pro-*
9 *gram described in paragraph (2) or (3) of subsection*
10 *(e); or*

11 “(2) *if such person or individual is otherwise so*
12 *eligible, become eligible for increased benefits under*
13 *such program.*

14 “(d) *INAPPLICABILITY OF PROHIBITION AGAINST AS-*
15 *SESSMENT AND LEGAL PROCESS.—Section 207 shall not*
16 *apply to actions taken under the provisions of this section*
17 *to decrease amounts payable under titles II and XVI.*

18 “(e) *PROGRAMS DESCRIBED.—The programs described*
19 *in this subsection are the following:*

20 “(1) *The old-age, survivors, and disability insur-*
21 *ance benefits program under title II.*

22 “(2) *The special benefits for certain World War*
23 *II veterans program under title VIII.*

24 “(3) *The supplemental security income benefits*
25 *program under title XVI (including, for purposes of*

1 *this section, State supplementary payments paid by*
 2 *the Commissioner pursuant to an agreement under*
 3 *section 1616(a) of this Act or section 212(b) of Public*
 4 *Law 93-66).”.*

5 (b) *CONFORMING AMENDMENTS.—*

6 (1) *Section 204(g) of the Social Security Act (42*
 7 *U.S.C. 404(g)) is amended to read as follows:*

8 “(g) *For provisions relating to the cross-program re-*
 9 *covery of overpayments made under programs administered*
 10 *by the Commissioner of Social Security, see section 1147.”.*

11 (2) *Section 808 of the Social Security Act (42*
 12 *U.S.C. 1008) is amended—*

13 (A) *in subsection (a)(1)—*

14 (i) *by striking subparagraph (B);*

15 (ii) *in the matter preceding subpara-*
 16 *graph (A), by striking “any payment” and*
 17 *all that follows through “under this title”*
 18 *and inserting “any payment under this*
 19 *title”; and*

20 (iii) *by striking “; or” and inserting a*
 21 *period;*

22 (B) *by striking subsection (b) and redesign-*
 23 *ating subsections (c), (d), and (e) as subsections*
 24 *(b), (c), and (d), respectively; and*

25 (C) *by adding at the end the following:*

1 “(e) *CROSS-PROGRAM RECOVERY OF OVERPAY-*
2 *MENTS.—For provisions relating to the cross-program re-*
3 *covery of overpayments made under programs administered*
4 *by the Commissioner of Social Security, see section 1147.”.*

5 (3) *Section 1147A of the Social Security Act (42*
6 *U.S.C. 1320b–18) is repealed.*

7 (4) *Section 1631(b) of the Social Security Act*
8 *(42 U.S.C. 1383(b)) is amended—*

9 (A) *in paragraph (1)(B)—*

10 (i) *by striking “excluding any other”*
11 *and inserting “excluding payments under*
12 *title II when recovery is made from title II*
13 *payments pursuant to section 1147 and ex-*
14 *cluding”; and*

15 (ii) *by striking “50 percent of”; and*

16 (B) *by striking paragraph (6) and inserting*
17 *the following:*

18 “(6) *For provisions relating to the cross-program re-*
19 *covery of overpayments made under programs administered*
20 *by the Commissioner of Social Security, see section 1147.”.*

21 (c) *EFFECTIVE DATE.—The amendments and repeal*
22 *made by this section shall take effect on the date of enact-*
23 *ment of this Act, and shall be effective with respect to over-*
24 *payments under titles II, VIII, and XVI of the Social Secu-*
25 *rity Act that are outstanding on or after such date.*

1 **SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS**
2 **TO PERSONS NOT AUTHORIZED TO WORK IN**
3 **THE UNITED STATES.**

4 (a) *FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.*—Section 214 (42 U.S.C. 414) is amended—

6 (1) *in subsection (a), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;*

9 (2) *in subsection (b), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;* and

12 (3) *by adding at the end the following:*

13 “(c) *For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—*

16 “(1) *has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or*

20 “(2) *at the time any such quarters of coverage are earned—*

22 “(A) *is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,*

25 “(B) *is lawfully admitted temporarily to the United States for business (in the case of an*

1 *individual described in such subparagraph (B))*
2 *or the performance as a crewman (in the case of*
3 *an individual described in such subparagraph*
4 *(D)), and*

5 *“(C) the business engaged in or service as a*
6 *crewman performed is within the scope of the*
7 *terms of such individual’s admission to the*
8 *United States.”.*

9 **(b) DISABILITY BENEFITS.**—*Section 223(a)(1) of the*
10 *Social Security Act (42 U.S.C. 423(a)(1)) is amended—*

11 *(1) by redesignating subparagraphs (C) and (D)*
12 *as subparagraphs (D) and (E), respectively; and*

13 *(2) by inserting after subparagraph (B), the fol-*
14 *lowing:*

15 *“(C) if not a United States citizen or national—*

16 *“(i) has been assigned a social security ac-*
17 *count number that was, at the time of assign-*
18 *ment, or at any later time, consistent with the*
19 *requirements of subclause (I) or (III) of section*
20 *205(c)(2)(B)(i); or*

21 *“(ii) at the time any quarters of coverage*
22 *are earned—*

23 *“(I) is described in subparagraph (B)*
24 *or (D) of section 101(a)(15) of the Immigra-*
25 *tion and Nationality Act,*

1 “(II) is lawfully admitted temporarily
2 to the United States for business (in the
3 case of an individual described in such sub-
4 paragraph (B)) or the performance as a
5 crewman (in the case of an individual de-
6 scribed in such subparagraph (D)), and

7 “(III) the business engaged in or serv-
8 ice as a crewman performed is within the
9 scope of the terms of such individual’s ad-
10 mission to the United States.”.

11 (c) *EFFECTIVE DATE.*—The amendments made by this
12 section apply to benefit applications based on social secu-
13 rity account numbers issued on or after January 1, 2004.

14 **TITLE III—ATTORNEY REP-**
15 **RESENTATIVE FEE PAYMENT**
16 **SYSTEM IMPROVEMENTS**

17 **SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

18 (a) *IN GENERAL.*—Section 206(d)(2)(A) of the Social
19 Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

20 (1) by inserting “, except that the maximum
21 amount of the assessment may not exceed the greater
22 of \$75 or the adjusted amount as provided pursuant
23 to the following two sentences” after “subparagraph
24 (B)”; and

1 (2) by adding at the end the following: “In the
2 case of any calendar year beginning after the amend-
3 ments made by section 301 of the Social Security
4 Protection Act of 2003 take effect, the dollar amount
5 specified in the preceding sentence (including a pre-
6 viously adjusted amount) shall be adjusted annually
7 under the procedures used to adjust benefit amounts
8 under section 215(i)(2)(A)(ii), except such adjustment
9 shall be based on the higher of \$75 or the previously
10 adjusted amount that would have been in effect for
11 December of the preceding year, but for the rounding
12 of such amount pursuant to the following sentence.
13 Any amount so adjusted that is not a multiple of \$1
14 shall be rounded to the next lowest multiple of \$1, but
15 in no case less than \$75.”.

16 (b) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply with respect to fees for representation
18 of claimants which are first required to be certified or paid
19 under section 206 of the Social Security Act on or after
20 the first day of the first month that begins after 180 days
21 after the date of the enactment of this Act.

22 **SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAY-**
23 **MENT SYSTEM TO TITLE XVI CLAIMS.**

24 (a) *IN GENERAL.*—Section 1631(d)(2) of the Social Se-
25 curity Act (42 U.S.C. 1383(d)(2)) is amended—

1 (1) in subparagraph (A), in the matter preceding
2 clause (i)—

3 (A) by striking “section 206(a)” and insert-
4 ing “section 206”;

5 (B) by striking “(other than paragraph (4)
6 thereof)” and inserting “(other than subsections
7 (a)(4) and (d) thereof)”; and

8 (C) by striking “paragraph (2) thereof” and
9 inserting “such section”;

10 (2) in subparagraph (A)(i)—

11 (A) by striking “in subparagraphs
12 (A)(ii)(I) and (C)(i),” and inserting “in sub-
13 paragraphs (A)(ii)(I) and (D)(i) of subsection
14 (a)(2)”; and

15 (B) by striking “and” at the end;

16 (3) by striking subparagraph (A)(ii) and insert-
17 ing the following:

18 “(ii) by substituting, in subsections (a)(2)(B)
19 and (b)(1)(B)(i), the phrase ‘paragraph (7)(A) or
20 (8)(A) of section 1631(a) or the requirements of due
21 process of law’ for the phrase ‘subsection (g) or (h) of
22 section 223’;

23 “(iii) by substituting, in subsection (a)(2)(C)(i),
24 the phrase ‘under title II’ for the phrase ‘under title
25 XVI’;

1 “(iv) by substituting, in subsection (b)(1)(A), the
2 phrase ‘pay the amount of such fee’ for the phrase
3 ‘certify the amount of such fee for payment’ and by
4 striking, in subsection (b)(1)(A), the phrase ‘or cer-
5 tified for payment’; and

6 “(v) by substituting, in subsection (b)(1)(B)(ii),
7 the phrase ‘deemed to be such amounts as determined
8 before any applicable reduction under section 1631(g),
9 and reduced by the amount of any reduction in bene-
10 fits under this title or title II made pursuant to sec-
11 tion 1127(a)’ for the phrase ‘determined before any
12 applicable reduction under section 1127(a)’.”; and

13 (4) by redesignating subparagraph (B) as sub-
14 paragraph (D) and inserting after subparagraph (A)
15 the following:

16 “(B) Subject to subparagraph (C), if the claimant is
17 determined to be entitled to past-due benefits under this title
18 and the person representing the claimant is an attorney,
19 the Commissioner of Social Security shall pay out of such
20 past-due benefits to such attorney an amount equal to the
21 lesser of—

22 “(i) so much of the maximum fee as does not ex-
23 ceed 25 percent of such past-due benefits (as deter-
24 mined before any applicable reduction under section
25 1631(g) and reduced by the amount of any reduction

1 *in benefits under this title or title II pursuant to sec-*
2 *tion 1127(a)), or*

3 *“(ii) the amount of past-due benefits available*
4 *after any applicable reductions under sections*
5 *1631(g) and 1127(a).*

6 *“(C)(i) Whenever a fee for services is required to be*
7 *paid to an attorney from a claimant’s past-due benefits*
8 *pursuant to subparagraph (B), the Commissioner shall im-*
9 *pose on the attorney an assessment calculated in accordance*
10 *with clause (ii).*

11 *“(ii)(I) The amount of an assessment under clause (i)*
12 *shall be equal to the product obtained by multiplying the*
13 *amount of the representative’s fee that would be required*
14 *to be paid by subparagraph (B) before the application of*
15 *this subparagraph, by the percentage specified in subclause*
16 *(II), except that the maximum amount of the assessment*
17 *may not exceed \$75. In the case of any calendar year begin-*
18 *ning after the amendments made by section 302 of the So-*
19 *cial Security Protection Act of 2003 take effect, the dollar*
20 *amount specified in the preceding sentence (including a*
21 *previously adjusted amount) shall be adjusted annually*
22 *under the procedures used to adjust benefit amounts under*
23 *section 215(i)(2)(A)(ii), except such adjustment shall be*
24 *based on the higher of \$75 or the previously adjusted*
25 *amount that would have been in effect for December of the*

1 preceding year, but for the rounding of such amount pursu-
2 ant to the following sentence. Any amount so adjusted that
3 is not a multiple of \$1 shall be rounded to the next lowest
4 multiple of \$1, but in no case less than \$75.

5 “(II) The percentage specified in this subclause is such
6 percentage rate as the Commissioner determines is nec-
7 essary in order to achieve full recovery of the costs of deter-
8 mining and approving fees to attorneys from the past-due
9 benefits of claimants, but not in excess of 6.3 percent.

10 “(iii) The Commissioner may collect the assessment
11 imposed on an attorney under clause (i) by offset from the
12 amount of the fee otherwise required by subparagraph (B)
13 to be paid to the attorney from a claimant’s past-due bene-
14 fits.

15 “(iv) An attorney subject to an assessment under
16 clause (i) may not, directly or indirectly, request or other-
17 wise obtain reimbursement for such assessment from the
18 claimant whose claim gave rise to the assessment.

19 “(v) Assessments on attorneys collected under this sub-
20 paragraph shall be deposited as miscellaneous receipts in
21 the general fund of the Treasury.

22 “(vi) The assessments authorized under this subpara-
23 graph shall be collected and available for obligation only
24 to the extent and in the amount provided in advance in
25 appropriations Acts. Amounts so appropriated are author-

1 ized to remain available until expended, for administrative
 2 expenses in carrying out this title and related laws.”.

3 (b) *CONFORMING AMENDMENTS.*—Section 1631(a) of
 4 the Social Security Act (42 U.S.C. 1383(a)) is amended—

5 (1) in paragraph (2)(F)(i)(II), by inserting
 6 “and payment of attorney fees under subsection
 7 (d)(2)(B)” after “subsection (g)”; and

8 (2) in paragraph (10)(A)—

9 (A) in the matter preceding clause (i), by
 10 inserting “and payment of attorney fees under
 11 subsection (d)(2)(B)” after “subsection (g)”; and

12 (B) in the matter following clause (ii), by
 13 inserting “and payment of attorney fees under
 14 subsection (d)(2)(B)” after “State”.

15 (c) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—The amendments made by
 17 this section shall apply with respect to fees for rep-
 18 resentation of claimants which are first required to be
 19 paid under section 1631(d)(2) of the Social Security
 20 Act on or after the date of the submission by the Com-
 21 missioner of Social Security to each House of Con-
 22 gress pursuant to section 303(d) of this Act of written
 23 notice of completion of full implementation of the re-
 24 quirements for operation of the demonstration project
 25 under section 303 of this Act.

1 (2) *SUNSET.*—*Such amendments shall not apply*
2 *with respect to fees for representation of claimants in*
3 *the case of any claim for benefits with respect to*
4 *which the agreement for representation is entered into*
5 *after 5 years after the date described in paragraph*
6 (1).

7 **SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PRO-**
8 **VIDING FOR EXTENSION OF FEE WITH-**
9 **HOLDING PROCEDURES TO NON-ATTORNEY**
10 **REPRESENTATIVES.**

11 (a) *IN GENERAL.*—*The Commissioner of Social Secu-*
12 *rity (hereafter in this section referred to as the “Commis-*
13 *sioner”)* shall develop and carry out a nationwide dem-
14 *onstration project under this section with respect to agents*
15 *and other persons, other than attorneys, who represent*
16 *claimants under titles II and XVI of the Social Security*
17 *Act before the Commissioner. The demonstration project*
18 *shall be designed to determine the potential results of ex-*
19 *tending to such representatives the fee withholding proce-*
20 *dures and assessment procedures that apply under sections*
21 *206 and section 1631(d)(2) of such Act to attorneys seeking*
22 *direct payment out of past due benefits under such titles*
23 *and shall include an analysis of the effect of such extension*
24 *on claimants and program administration.*

1 (b) *STANDARDS FOR INCLUSION IN DEMONSTRATION*
2 *PROJECT.*—*Fee-withholding procedures may be extended*
3 *under the demonstration project carried out pursuant to*
4 *subsection (a) to any non-attorney representative only if*
5 *such representative meets at least the following pre-*
6 *requisites:*

7 (1) *The representative has been awarded a bach-*
8 *elor's degree from an accredited institution of higher*
9 *education, or has been determined by the Commis-*
10 *sioner to have equivalent qualifications derived from*
11 *training and work experience.*

12 (2) *The representative has passed an examina-*
13 *tion, written and administered by the Commissioner,*
14 *which tests knowledge of the relevant provisions of the*
15 *Social Security Act and the most recent developments*
16 *in agency and court decisions affecting titles II and*
17 *XVI of such Act.*

18 (3) *The representative has secured professional*
19 *liability insurance, or equivalent insurance, which the*
20 *Commissioner has determined to be adequate to pro-*
21 *tect claimants in the event of malpractice by the rep-*
22 *resentative.*

23 (4) *The representative has undergone a criminal*
24 *background check to ensure the representative's fitness*
25 *to practice before the Commissioner.*

1 (5) *The representative demonstrates ongoing*
2 *completion of qualified courses of continuing edu-*
3 *cation, including education regarding ethics and pro-*
4 *fessional conduct, which are designed to enhance pro-*
5 *fessional knowledge in matters related to entitlement*
6 *to, or eligibility for, benefits based on disability under*
7 *titles II and XVI of such Act. Such continuing edu-*
8 *cation, and the instructors providing such education,*
9 *shall meet such standards as the Commissioner may*
10 *prescribe.*

11 (c) *ASSESSMENT OF FEES.—*

12 (1) *IN GENERAL.—The Commissioner may assess*
13 *representatives reasonable fees to cover the cost to the*
14 *Social Security Administration of administering the*
15 *prerequisites described in subsection (b).*

16 (2) *DISPOSITION OF FEES.—Fees collected under*
17 *paragraph (1) shall be credited to the Federal Old-Age*
18 *and Survivors Insurance Trust Fund and the Federal*
19 *Disability Insurance Trust Fund, or deposited as*
20 *miscellaneous receipts in the general fund of the*
21 *Treasury, based on such allocations as the Commis-*
22 *sioner of Social Security determines appropriate.*

23 (3) *AUTHORIZATION OF APPROPRIATIONS.—The*
24 *fees authorized under this subparagraph shall be col-*
25 *lected and available for obligation only to the extent*

1 *and in the amount provided in advance in appro-*
2 *priations Acts. Amounts so appropriated are author-*
3 *ized to remain available until expended for admin-*
4 *istering the prerequisites described in subsection (b).*

5 *(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE*
6 *WITHHOLDING PROCEDURES.—Not later than 1 year after*
7 *the date of enactment of this Act, the Commissioner shall*
8 *complete such actions as are necessary to fully implement*
9 *the requirements for full operation of the demonstration*
10 *project and shall submit to each House of Congress a writ-*
11 *ten notice of the completion of such actions. The applica-*
12 *bility under this section to non-attorney representatives of*
13 *the fee withholding procedures and assessment procedures*
14 *under sections 206 and 1631(d)(2) of the Social Security*
15 *Act shall be effective with respect to fees for representation*
16 *of claimants in the case of claims for benefits with respect*
17 *to which the agreement for representation is entered into*
18 *by such non-attorney representatives during the period be-*
19 *ginning with the date of the submission of such notice by*
20 *the Commissioner to Congress and ending with the termi-*
21 *nation date of the demonstration project.*

22 *(e) REPORTS BY THE COMMISSIONER; TERMI-*
23 *NATION.—*

24 *(1) INTERIM REPORTS.—On or before the date*
25 *which is 1 year after the date of enactment of this*

1 *Act, and annually thereafter, the Commissioner shall*
2 *transmit to the Committee on Ways and Means of the*
3 *House of Representatives and to the Committee on Fi-*
4 *nance of the Senate an annual interim report on the*
5 *progress of the demonstration project carried out*
6 *under this section, together with any related data and*
7 *materials that the Commissioner may consider appro-*
8 *priate.*

9 (2) *TERMINATION DATE AND FINAL REPORT.—*
10 *The termination date of the demonstration project*
11 *under this section is the date which is 5 years after*
12 *the date of the submission of the notice by the Com-*
13 *missioner to each House of Congress pursuant to sub-*
14 *section (d). The authority under the preceding provi-*
15 *sions of this section shall not apply in the case of*
16 *claims for benefits with respect to which the agree-*
17 *ment for representation is entered into after the ter-*
18 *mination date. Not later than 90 days after the ter-*
19 *mination date, the Commissioner shall submit to the*
20 *Committee on Ways and Means of the House of Rep-*
21 *resentatives and to the Committee on Finance of the*
22 *Senate a final report with respect to the demonstra-*
23 *tion project.*

1 **SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROC-**
2 **ESS FOR CLAIMANT REPRESENTATIVES.**

3 (a) *STUDY.*—

4 (1) *IN GENERAL.*—*The Comptroller General of*
5 *the United States shall study and evaluate the ap-*
6 *pointment and payment of claimant representatives*
7 *appearing before the Commissioner of Social Security*
8 *in connection with benefit claims under titles II and*
9 *XVI of the Social Security Act (42 U.S.C. 401 et seq.,*
10 *1381 et seq.) in each of the following groups:*

11 (A) *Attorney claimant representatives who*
12 *elect fee withholding under section 206 or*
13 *1631(d)(2) of such Act.*

14 (B) *Attorney claimant representatives who*
15 *do not elect such fee withholding.*

16 (C) *Non-attorney claimant representatives*
17 *who are eligible for, and elect, such fee with-*
18 *holding.*

19 (D) *Non-attorney claimant representatives*
20 *who are eligible for, but do not elect, such fee*
21 *withholding.*

22 (E) *Non-attorney claimant representatives*
23 *who are not eligible for such fee withholding.*

24 (2) *MATTERS TO BE STUDIED.*—*In conducting*
25 *the study under this subsection, the Comptroller Gen-*

1 *eral shall, for each of group of claimant representa-*
2 *tives described in paragraph (1)—*

3 *(A) conduct a survey of the relevant charac-*
4 *teristics of such claimant representatives*
5 *including—*

6 *(i) qualifications and experience;*

7 *(ii) the type of employment of such*
8 *claimant representatives, such as with an*
9 *advocacy group, State or local government,*
10 *or insurance or other company;*

11 *(iii) geographical distribution between*
12 *urban and rural areas;*

13 *(iv) the nature of claimants' cases,*
14 *such as whether the cases are for disability*
15 *insurance benefits only, supplemental secu-*
16 *rity income benefits only, or concurrent*
17 *benefits;*

18 *(v) the relationship of such claimant*
19 *representatives to claimants, such as wheth-*
20 *er the claimant is a friend, family member,*
21 *or client of the claimant representative; and*

22 *(vi) the amount of compensation (if*
23 *any) paid to the claimant representatives*
24 *and the method of payment of such com-*
25 *penetration;*

1 (B) assess the quality and effectiveness of
2 the services provided by such claimant represent-
3 atives, including a comparison of claimant satis-
4 faction or complaints and benefit outcomes, ad-
5 justed for differences in claimant representatives'
6 caseload, claimants' diagnostic group, level of de-
7 cision, and other relevant factors;

8 (C) assess the interactions between fee with-
9 holding under sections 206 and 1631(d)(2) of
10 such Act (including under the amendments made
11 by section 302 of this Act and under the dem-
12 onstration project conducted under section 303 of
13 this Act), the windfall offset under section 1127
14 of such Act, and interim assistance reimburse-
15 ments under section 1631(g) of such Act;

16 (D) assess the potential results of making
17 permanent the fee withholding procedures under
18 sections 206 and 1631(d)(2) of such Act under
19 the amendments made by section 302 of this Act
20 and under the demonstration project conducted
21 under section 303 of this Act with respect to pro-
22 gram administration and claimant outcomes,
23 and assess whether the rules and procedures em-
24 ployed by the Commissioner of Social Security to
25 evaluate the qualifications and performance of

1 *claimant representatives should be revised prior*
2 *to making such procedures permanent; and*

3 *(E) make such recommendations for admin-*
4 *istrative and legislative changes as the Comp-*
5 *troller General of the United States considers*
6 *necessary or appropriate.*

7 *(3) CONSULTATION REQUIRED.—The Comptroller*
8 *General of the United States shall consult with bene-*
9 *ficiaries under title II of such Act, beneficiaries under*
10 *title XVI of such Act, claimant representatives of*
11 *beneficiaries under such titles, and other interested*
12 *parties, in conducting the study and evaluation re-*
13 *quired under paragraph (1).*

14 *(b) REPORT.—Not later than 3 years after the date*
15 *of the submission by the Commissioner of Social Security*
16 *to each House of Congress pursuant to section 303(d) of*
17 *this Act of written notice of completion of full implementa-*
18 *tion of the requirements for operation of the demonstration*
19 *project under section 303 of this Act, the Comptroller Gen-*
20 *eral of the United States shall submit to the Committee on*
21 *Ways and Means of the House of Representatives and the*
22 *Committee on Finance of the Senate a report on the results*
23 *of the study and evaluation conducted pursuant to sub-*
24 *section (a).*

1 **TITLE IV—MISCELLANEOUS AND**
 2 **TECHNICAL AMENDMENTS**
 3 **Subtitle A—Amendments Relating**
 4 **to the Ticket to Work and Work**
 5 **Incentives Improvement Act of**
 6 **1999**

7 **SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY**
 8 **SUNSET DATE TO NEW PROJECTS.**

9 *Section 234 of the Social Security Act (42 U.S.C. 434)*
 10 *is amended—*

11 *(1) in the first sentence of subsection (c), by*
 12 *striking “conducted under subsection (a)” and insert-*
 13 *ing “initiated under subsection (a) on or before De-*
 14 *cember 17, 2005”; and*

15 *(2) in subsection (d)(2), by striking the first sen-*
 16 *tence and inserting the following: “The authority to*
 17 *initiate projects under the preceding provisions of this*
 18 *section shall terminate on December 18, 2005.”.*

19 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**
 20 **IN CONNECTION WITH DEMONSTRATION**
 21 **PROJECTS PROVIDING FOR REDUCTIONS IN**
 22 **DISABILITY INSURANCE BENEFITS BASED ON**
 23 **EARNINGS.**

24 *Section 302(c) of the Ticket to Work and Work Incen-*
 25 *tives Improvement Act of 1999 (42 U.S.C. 434 note) is*

1 amended by striking “(42 U.S.C. 401 et seq.),” and insert-
2 ing “(42 U.S.C. 401 et seq.) and the requirements of section
3 1148 of such Act (42 U.S.C. 1320b–19) as they relate to
4 the program established under title II of such Act.”.

5 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**
6 **VIDING FOR REDUCTIONS IN DISABILITY IN-**
7 **SURANCE BENEFITS BASED ON EARNINGS.**

8 Section 302(f) of the Ticket to Work and Work Incen-
9 tives Improvement Act of 1999 (42 U.S.C. 434 note) is
10 amended to read as follows:

11 “(f) *EXPENDITURES.*—Administrative expenses for
12 demonstration projects under this section shall be paid from
13 funds available for the administration of title II or XVIII
14 of the Social Security Act, as appropriate. Benefits payable
15 to or on behalf of individuals by reason of participation
16 in projects under this section shall be made from the Federal
17 Disability Insurance Trust Fund and the Federal Old-Age
18 and Survivors Insurance Trust Fund, as determined appro-
19 priate by the Commissioner of Social Security, and from
20 the Federal Hospital Insurance Trust Fund and the Federal
21 Supplementary Medical Insurance Trust Fund, as deter-
22 mined appropriate by the Secretary of Health and Human
23 Services, from funds available for benefits under such title
24 II or XVIII.”.

1 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**
2 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**
3 **UALS.**

4 (a) *FEDERAL WORK INCENTIVES OUTREACH PRO-*
5 *GRAM.*—

6 (1) *IN GENERAL.*—Section 1149(c)(2) of the So-
7 cial Security Act (42 U.S.C. 1320b-20(c)(2)) is
8 amended to read as follows:

9 “(2) *DISABLED BENEFICIARY.*—The term ‘dis-
10 abled beneficiary’ means an individual—

11 “(A) who is a disabled beneficiary as de-
12 fined in section 1148(k)(2) of this Act;

13 “(B) who is receiving a cash payment de-
14 scribed in section 1616(a) of this Act or a sup-
15 plementary payment described in section
16 212(a)(3) of Public Law 93-66 (without regard
17 to whether such payment is paid by the Commis-
18 sioner pursuant to an agreement under section
19 1616(a) of this Act or under section 212(b) of
20 Public Law 93-66);

21 “(C) who, pursuant to section 1619(b) of
22 this Act, is considered to be receiving benefits
23 under title XVI of this Act; or

24 “(D) who is entitled to benefits under part
25 A of title XVIII of this Act by reason of the pe-
26 nultimate sentence of section 226(b) of this Act.”.

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
2 *this subsection shall apply with respect to grants, co-*
3 *operative agreements, or contracts entered into on or*
4 *after the date of the enactment of this Act.*

5 (b) *STATE GRANTS FOR WORK INCENTIVES ASSIST-*
6 *ANCE.*—

7 (1) *DEFINITION OF DISABLED BENEFICIARY.*—
8 *Section 1150(g)(2) of such Act (42 U.S.C. 1320b-*
9 *21(g)(2)) is amended to read as follows:*

10 “(2) *DISABLED BENEFICIARY.*—*The term ‘dis-*
11 *abled beneficiary’ means an individual—*

12 “(A) *who is a disabled beneficiary as de-*
13 *fined in section 1148(k)(2) of this Act;*

14 “(B) *who is receiving a cash payment de-*
15 *scribed in section 1616(a) of this Act or a sup-*
16 *plementary payment described in section*
17 *212(a)(3) of Public Law 93–66 (without regard*
18 *to whether such payment is paid by the Commis-*
19 *sioner pursuant to an agreement under section*
20 *1616(a) of this Act or under section 212(b) of*
21 *Public Law 93–66);*

22 “(C) *who, pursuant to section 1619(b) of*
23 *this Act, is considered to be receiving benefits*
24 *under title XVI of this Act; or*

1 are appropriate to improve the effectiveness of such
2 program.

3 **SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR**
4 **CERTAIN WORK INCENTIVES PROGRAMS.**

5 (a) *BENEFITS PLANNING, ASSISTANCE, AND OUT-*
6 *REACH.*—Section 1149(d) of the Social Security Act (42
7 U.S.C. 1320b–20(d)) is amended by striking “2004” and
8 inserting “2009”.

9 (b) *PROTECTION AND ADVOCACY.*—Section 1150(h) of
10 the Social Security Act (42 U.S.C. 1320b–21(h)) is amend-
11 ed by striking “2004” and inserting “2009”.

12 **Subtitle B—Miscellaneous**
13 **Amendments**

14 **SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN**
15 **REMAND CASES FULLY FAVORABLE TO THE**
16 **CLAIMANT.**

17 (a) *IN GENERAL.*—Section 205(g) of the Social Secu-
18 rity Act (42 U.S.C. 405(g)) is amended in the sixth sen-
19 tence by striking “and a transcript” and inserting “and,
20 in any case in which the Commissioner has not made a
21 decision fully favorable to the individual, a transcript”.

22 (b) *EFFECTIVE DATE.*—The amendment made by this
23 section shall apply with respect to final determinations
24 issued (upon remand) on or after the date of the enactment
25 of this Act.

1 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**
2 **FROM THE UNITED STATES.**

3 (a) *IN GENERAL.*—Section 202(n) of the Social Secu-
4 rity Act (42 U.S.C. 402(n)) is amended—

5 (1) in paragraph (1), by striking “section 241(a)
6 (other than under paragraph (1)(C) or (1)(E) thereof)
7 of the Immigration and Nationality Act” and insert-
8 ing “section 237(a) of the Immigration and Nation-
9 ality Act (other than under paragraph (1)(C) of such
10 section) or under section 212(a)(6)(A) of such Act”;

11 (2) in paragraph (2), by striking “section 241(a)
12 of the Immigration and Nationality Act (other than
13 under paragraph (1)(C) or (1)(E) thereof)” and in-
14 serting “section 237(a) of the Immigration and Na-
15 tionality Act (other than under paragraph (1)(C) of
16 such section) or under section 212(a)(6)(A) of such
17 Act”;

18 (3) in paragraph (3), by striking “paragraph
19 (19) of section 241(a) of the Immigration and Nation-
20 ality Act (relating to persecution of others on account
21 of race, religion, national origin, or political opinion,
22 under the direction of or in association with the Nazi
23 government of Germany or its allies) shall be consid-
24 ered to have been deported under such paragraph
25 (19)” and inserting “paragraph (4)(D) of section
26 241(a) of the Immigration and Nationality Act (re-

1 *lating to participating in Nazi persecutions or geno-*
2 *cide) shall be considered to have been deported under*
3 *such paragraph (4)(D)”; and*

4 *(4) in paragraph (3) (as amended by paragraph*
5 *(3) of this subsection), by striking “241(a)” and in-*
6 *serting “237(a)”.*

7 *(b) TECHNICAL CORRECTIONS.—*

8 *(1) TERMINOLOGY REGARDING REMOVAL FROM*
9 *THE UNITED STATES.—Section 202(n) of the Social*
10 *Security Act (42 U.S.C. 402(n)) (as amended by sub-*
11 *section (a)) is amended further—*

12 *(A) by striking “deportation” each place it*
13 *appears and inserting “removal”;*

14 *(B) by striking “deported” each place it ap-*
15 *pears and inserting “removed”; and*

16 *(C) in the heading, by striking “Deporta-*
17 *tion” and inserting “Removal”.*

18 *(2) REFERENCES TO THE SECRETARY OF HOME-*
19 *LAND SECURITY.—Section 202(n) of the Social Secu-*
20 *rity Act (42 U.S.C. 402(n)) (as amended by sub-*
21 *section (a) and paragraph (1)) is amended further by*
22 *inserting “or the Secretary of Homeland Security”*
23 *after “the Attorney General” each place it appears.*

24 *(c) EFFECTIVE DATES.—*

25 *(1) IN GENERAL.—The amendment made by—*

1 (A) subsection (a)(1) shall apply to individ-
2 uals with respect to whom the Commissioner of
3 Social Security receives a removal notice after
4 the date of the enactment of this Act;

5 (B) subsection (a)(2) shall apply with re-
6 spect to notifications of removals received by the
7 Commissioner of Social Security after the date of
8 enactment of this Act; and

9 (C) subsection (a)(3) shall be effective as if
10 enacted on March 1, 1991.

11 (2) *SUBSEQUENT CORRECTION OF CROSS-REF-*
12 *ERENCE AND TERMINOLOGY.*—The amendments made
13 by subsections (a)(4) and (b)(1) shall be effective as
14 if enacted on April 1, 1997.

15 (3) *REFERENCES TO THE SECRETARY OF HOME-*
16 *LAND SECURITY.*—The amendment made by sub-
17 section (b)(2) shall be effective as if enacted on March
18 1, 2003.

19 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**
20 **QUIREMENTS.**

21 Section 3003(a)(1) of the *Federal Reports Elimination*
22 and *Sunset Act of 1995* (31 U.S.C. 1113 note) shall not
23 apply to any report required to be submitted under any
24 of the following provisions of law:

1 (1)(A) *Section 201(c)(2) of the Social Security*
2 *Act (42 U.S.C. 401(c)(2)).*

3 (B) *Section 1817(b)(2) of the Social Security Act*
4 *(42 U.S.C. 1395i(b)(2)).*

5 (C) *Section 1841(b)(2) of the Social Security Act*
6 *(42 U.S.C. 1395t(b)(2)).*

7 (2)(A) *Section 221(c)(3)(C) of the Social Secu-*
8 *rity Act (42 U.S.C. 421(c)(3)(C)).*

9 (B) *Section 221(i)(3) of the Social Security Act*
10 *(42 U.S.C. 421(i)(3)).*

11 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**
12 **CERTAIN SURVIVOR BENEFITS.**

13 (a) *WIDOWS.*—*Section 216(c) of the Social Security*
14 *Act (42 U.S.C. 416(c)) is amended—*

15 (1) *by redesignating subclauses (A) through (C)*
16 *of clause (6) as subclauses (i) through (iii), respec-*
17 *tively;*

18 (2) *by redesignating clauses (1) through (6) as*
19 *clauses (A) through (F), respectively;*

20 (3) *in clause (E) (as redesignated), by inserting*
21 *“except as provided in paragraph (2),” before “she*
22 *was married”;*

23 (4) *by inserting “(1)” after “(c)”;* and

24 (5) *by adding at the end the following:*

1 “(2) *The requirements of paragraph (1)(E) in connec-*
2 *tion with the surviving wife of an individual shall be treat-*
3 *ed as satisfied if—*

4 “(A) *the individual had been married prior to*
5 *the individual’s marriage to the surviving wife,*

6 “(B) *the prior wife was institutionalized during*
7 *the individual’s marriage to the prior wife due to*
8 *mental incompetence or similar incapacity,*

9 “(C) *during the period of the prior wife’s insti-*
10 *tutionalization, the individual would have divorced*
11 *the prior wife and married the surviving wife, but the*
12 *individual did not do so because such divorce would*
13 *have been unlawful, by reason of the prior wife’s in-*
14 *stitutionalization, under the laws of the State in*
15 *which the individual was domiciled at the time (as*
16 *determined based on evidence satisfactory to the Com-*
17 *missioner of Social Security),*

18 “(D) *the prior wife continued to remain institu-*
19 *tionalized up to the time of her death, and*

20 “(E) *the individual married the surviving wife*
21 *within 60 days after the prior wife’s death.”.*

22 (b) *WIDOWERS.—Section 216(g) of such Act (42*
23 *U.S.C. 416(g)) is amended—*

1 (1) by redesignating subclauses (A) through (C)
2 of clause (6) as subclauses (i) through (iii), respec-
3 tively;

4 (2) by redesignating clauses (1) through (6) as
5 clauses (A) through (F), respectively;

6 (3) in clause (E) (as redesignated), by inserting
7 “except as provided in paragraph (2),” before “he was
8 married”;

9 (4) by inserting “(1)” after “(g)”; and

10 (5) by adding at the end the following:

11 “(2) The requirements of paragraph (1)(E) in connec-
12 tion with the surviving husband of an individual shall be
13 treated as satisfied if—

14 “(A) the individual had been married prior to
15 the individual’s marriage to the surviving husband,

16 “(B) the prior husband was institutionalized
17 during the individual’s marriage to the prior husband
18 due to mental incompetence or similar incapacity,

19 “(C) during the period of the prior husband’s in-
20 stitutionalization, the individual would have divorced
21 the prior husband and married the surviving hus-
22 band, but the individual did not do so because such
23 divorce would have been unlawful, by reason of the
24 prior husband’s institutionalization, under the laws
25 of the State in which the individual was domiciled at

1 **SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM**
 2 **FOR PUBLIC EMPLOYEES IN KENTUCKY AND**
 3 **LOUISIANA.**

4 (a) *IN GENERAL.*—Section 218(d)(6)(C) of the Social
 5 Security Act (42 U.S.C. 418(d)(6)(C)) is amended by in-
 6 serting “Kentucky, Louisiana,” after “Illinois,”.

7 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 8 section (a) takes effect on January 1, 2003.

9 **SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVI-**
 10 **SORY BOARD.**

11 (a) *IN GENERAL.*—Subsection (f) of section 703 of the
 12 Social Security Act (42 U.S.C. 903(f)) is amended to read
 13 as follows:

14 “Compensation, Expenses, and Per Diem
 15 “(f) A member of the Board shall, for each day (includ-
 16 ing traveltime) during which the member is attending meet-
 17 ings or conferences of the Board or otherwise engaged in
 18 the business of the Board, be compensated at the daily rate
 19 of basic pay for level IV of the Executive Schedule. While
 20 serving on business of the Board away from their homes
 21 or regular places of business, members may be allowed trav-
 22 el expenses, including per diem in lieu of subsistence, as
 23 authorized by section 5703 of title 5, United States Code,
 24 for persons in the Government employed intermittently.”.

25 (b) *EFFECTIVE DATE.*—The amendment made by this
 26 section shall be effective as of January 1, 2003.

1 **SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE-**
2 **MENT FOR APPLICATION OF GOVERNMENT**
3 **PENSION OFFSET EXEMPTION.**

4 (a) *IN GENERAL.*—Section 202(k) of the Social Secu-
5 rity Act (42 U.S.C. 402(k)) is amended by adding at the
6 end the following:

7 “(5)(A) The amount of a monthly insurance benefit
8 of any individual for each month under subsection (b), (c),
9 (e), (f), or (g) (as determined after application of the provi-
10 sions of subsection (q) and the preceding provisions of this
11 subsection) shall be reduced (but not below zero) by an
12 amount equal to two-thirds of the amount of any monthly
13 periodic benefit payable to such individual for such month
14 which is based upon such individual’s earnings while in
15 the service of the Federal Government or any State (or po-
16 litical subdivision thereof, as defined in section 218(b)(2))
17 if, during any portion of the last 60 months of such service
18 ending with the last day such individual was employed by
19 such entity—

20 “(i) such service did not constitute ‘employment’
21 as defined in section 210, or

22 “(ii) such service was being performed while in
23 the service of the Federal Government, and constituted
24 ‘employment’ as so defined solely by reason of—

25 “(I) clause (ii) or (iii) of subparagraph (G)
26 of section 210(a)(5), where the lump-sum pay-

1 *ment described in such clause (ii) or the ces-*
2 *sation of coverage described in such clause (iii)*
3 *(whichever is applicable) was received or oc-*
4 *curring on or after January 1, 1988, or*

5 *“(II) an election to become subject to the*
6 *Federal Employees’ Retirement System provided*
7 *in chapter 84 of title 5, United States Code, or*
8 *the Foreign Service Pension System provided in*
9 *subchapter II of chapter 8 of title I of the For-*
10 *foreign Service Act of 1980 made pursuant to law*
11 *after December 31, 1987,*

12 *unless subparagraph (B) applies.*

13 *The amount of the reduction in any benefit under this sub-*
14 *paragraph, if not a multiple of \$0.10, shall be rounded to*
15 *the next higher multiple of \$0.10.*

16 *“(B)(i) Subparagraph (A)(i) shall not apply with re-*
17 *spect to monthly periodic benefits based wholly on service*
18 *as a member of a uniformed service (as defined in section*
19 *210(m)).*

20 *“(ii) Subparagraph (A)(ii) shall not apply with re-*
21 *spect to monthly periodic benefits based in whole or in part*
22 *on service which constituted ‘employment’ as defined in sec-*
23 *tion 210 if such service was performed for at least 60*
24 *months in the aggregate during the period beginning Janu-*
25 *ary 1, 1988, and ending with the close of the first calendar*

1 month as of the end of which such individual is eligible
 2 for benefits under this subsection and has made a valid ap-
 3 plication for such benefits.

4 “(C) For purposes of this paragraph, any periodic ben-
 5 efit which otherwise meets the requirements of subpara-
 6 graph (A), but which is paid on other than a monthly basis,
 7 shall be allocated on a basis equivalent to a monthly benefit
 8 (as determined by the Commissioner of Social Security)
 9 and such equivalent monthly benefit shall constitute a
 10 monthly periodic benefit for purposes of subparagraph (A).
 11 For purposes of this subparagraph, the term ‘periodic ben-
 12 efit’ includes a benefit payable in a lump sum if it is a
 13 commutation of, or a substitute for, periodic payments.”.

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) *WIFE’S INSURANCE BENEFITS.*—Section
 16 202(b) of the Social Security Act (42 U.S.C. 402(b))
 17 is amended—

18 (A) in paragraph (2), by striking “sub-
 19 section (q) and paragraph (4) of this subsection”
 20 and inserting “subsections (k)(5) and (q)”; and

21 (B) by striking paragraph (4) and redesign-
 22 ating paragraph (5) as paragraph (4).

23 (2) *HUSBAND’S INSURANCE BENEFITS.*—Section
 24 202(c) of the Social Security Act (42 U.S.C. 402(c))
 25 is amended—

1 (A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

2
3
4 (B) in paragraph (2) as so redesignated, by striking “subsection (q) and paragraph (2) of this subsection” and inserting “subsections (k)(5) and (q)”.

5
6
7
8 (3) WIDOW’S INSURANCE BENEFITS.—Section
9 202(e) of the Social Security Act (42 U.S.C. 402(e))
10 is amended—

11 (A) in paragraph (2)(A), by striking “subsection (q), paragraph (7) of this subsection,” and inserting “subsection (k)(5), subsection (q),”;
12
13 and
14

15 (B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

16
17
18 (4) WIDOWER’S INSURANCE BENEFITS.—

19 (A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—
20
21

22 (i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;
23
24 and
25

1 (ii) in paragraph (2) as so redesign-
2 nated, by striking “subsection (q), para-
3 graph (2) of this subsection,” and inserting
4 “subsection (k)(5), subsection (q),”.

5 (B) CONFORMING AMENDMENTS.—

6 (i) Section 202(f)(1)(B) of the Social
7 Security Act (42 U.S.C. 402(f)(1)(B)) is
8 amended by striking “paragraph (5)” and
9 inserting “paragraph (4)”.

10 (ii) Section 202(f)(1)(F) of the Social
11 Security Act (42 U.S.C. 402(f)(1)(F)) is
12 amended by striking “paragraph (6)” and
13 “paragraph (5)” (in clauses (i) and (ii))
14 and inserting “paragraph (5)” and “para-
15 graph (4)”, respectively.

16 (iii) Section 202(f)(5)(A)(ii) of the So-
17 cial Security Act (as redesignated by sub-
18 paragraph (A)(i)) is amended by striking
19 “paragraph (5)” and inserting “paragraph
20 (4)”.

21 (iv) Section 202(k)(2)(B) of the Social
22 Security Act (42 U.S.C. 402(k)(2)(B)) is
23 amended by striking “or (f)(4)” each place
24 it appears and inserting “or (f)(3)”.

1 (v) Section 202(k)(3)(A) of the Social
2 Security Act (42 U.S.C. 402(k)(3)(A)) is
3 amended by striking “or (f)(3)” and insert-
4 ing “or (f)(2)”.

5 (vi) Section 202(k)(3)(B) of the Social
6 Security Act (42 U.S.C. 402(k)(3)(B)) is
7 amended by striking “or (f)(4)” and insert-
8 ing “or (f)(3)”.

9 (vii) Section 226(e)(1)(A)(i) of the So-
10 cial Security Act (42 U.S.C.
11 426(e)(1)(A)(i)) is amended by striking
12 “and 202(f)(5)” and inserting “and
13 202(f)(4)”.

14 (5) *MOTHER’S AND FATHER’S INSURANCE BENE-*
15 *FITS.*—Section 202(g) of the Social Security Act (42
16 U.S.C. 402(g)) is amended—

17 (A) in paragraph (2), by striking “Except
18 as provided in paragraph (4) of this subsection,
19 such” and inserting “Such”; and

20 (B) by striking paragraph (4).

21 (c) *EFFECTIVE DATE AND TRANSITIONAL RULE.*—

22 (1) *IN GENERAL.*—The amendments made by
23 this section shall apply with respect to applications
24 for benefits under title II of the Social Security Act
25 filed on or after the first day of the first month that

1 begins after the date of enactment of this Act, except
2 that such amendments shall not apply in connection
3 with monthly periodic benefits of any individual
4 based on earnings while in service described in section
5 202(k)(5)(A) of the Social Security Act (in the matter
6 preceding clause (i) thereof) if the last day of such
7 service occurs before July 1, 2004.

8 (2) *TRANSITIONAL RULE.*—In the case of any in-
9 dividual whose last day of service described in sub-
10 paragraph (A) of section 202(k)(5) of the Social Secu-
11 rity Act (as added by subsection (a) of this section)
12 occurs within 5 years after the date of enactment of
13 this Act—

14 (A) the 60-month period described in such
15 subparagraph (A) shall be reduced (but not to
16 less than 1 month) by the number of months of
17 such service (in the aggregate and without regard
18 to whether such months of service were contin-
19 uous) which—

20 (i) were performed by the individual
21 under the same retirement system on or be-
22 fore the date of enactment of this Act, and
23 (ii) constituted “employment” as de-
24 fined in section 210 of the Social Security
25 Act; and

1 (B) months of service necessary to fulfill the
 2 60-month period as reduced by subparagraph
 3 (A) of this paragraph must be performed after
 4 the date of enactment of this Act.

5 **SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WIND-**
 6 **FALL ELIMINATION PROVISION AND GOVERN-**
 7 **MENT PENSION OFFSET PROVISION.**

8 (a) *INCLUSION OF NONCOVERED EMPLOYEES AS ELI-*
 9 *GIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY AC-*
 10 *COUNT STATEMENTS.*—Section 1143(a)(3) of the Social Se-
 11 *curity Act (42 U.S.C. 1320b–13(a)(3)) is amended—*

12 (1) by striking “who” after “an individual” and
 13 inserting “who” before “has” in each of subpara-
 14 graphs (A) and (B);

15 (2) by inserting “(i) who” after “(C)”; and

16 (3) by inserting before the period the following:
 17 “; or (ii) with respect to whom the Commissioner has
 18 information that the pattern of wages or self-employ-
 19 ment income indicate a likelihood of noncovered em-
 20 ployment”.

21 (b) *EXPLANATION IN SOCIAL SECURITY ACCOUNT*
 22 *STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENE-*
 23 *FITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON*
 24 *SOCIAL SECURITY BENEFITS.*—Section 1143(a)(2) of the

1 of, as defined in section 218(b)(2)) in a position in which
2 service performed by the individual does not constitute 'em-
3 ployment' as defined in section 210, the head of the agency
4 or instrumentality shall ensure that, prior to the date of
5 the commencement of the individual's employment in the
6 position, the individual is provided a written notice setting
7 forth an explanation, in language calculated to be under-
8 stood by the average individual, of the maximum effect on
9 computations of primary insurance amounts (under section
10 215(a)(7)) and the effect on benefit amounts (under section
11 202(k)(5)) of monthly periodic payments or benefits pay-
12 able based on earnings derived in such service. Such notice
13 shall be in a form which shall be prescribed by the Commis-
14 sioner of Social Security.

15 “(2) The written notice provided to an individual pur-
16 suant to paragraph (1) shall include a form which, upon
17 completion and signature by the individual, would con-
18 stitute certification by the individual of receipt of the no-
19 tice. The agency or instrumentality providing the notice to
20 the individual shall require that the form be completed and
21 signed by the individual and submitted to the agency or
22 instrumentality and to the pension, annuity, retirement, or
23 similar fund or system established by the governmental en-
24 tity involved responsible for paying the monthly periodic

1 *payments or benefits, before commencement of service with*
2 *the agency or instrumentality.”.*

3 (d) *EFFECTIVE DATES.*—*The amendments made by*
4 *subsections (a) and (b) of this section shall apply with re-*
5 *spect to social security account statements issued on or after*
6 *January 1, 2007.*

7 **SEC. 420. POST-1956 MILITARY WAGE CREDITS.**

8 (a) *PAYMENT TO THE SOCIAL SECURITY TRUST*
9 *FUNDS IN SATISFACTION OF OUTSTANDING OBLIGA-*
10 *TIONS.*—*Section 201 of the Social Security Act (42 U.S.C.*
11 *401) is amended by adding at the end the following:*

12 “(n) *Not later than July 1, 2004, the Secretary of the*
13 *Treasury shall transfer, from amounts in the general fund*
14 *of the Treasury that are not otherwise appropriated—*

15 “(1) *\$624,971,854 to the Federal Old-Age and*
16 *Survivors Insurance Trust Fund;*

17 “(2) *\$105,379,671 to the Federal Disability In-*
18 *surance Trust Fund; and*

19 “(3) *\$173,306,134 to the Federal Hospital Insur-*
20 *ance Trust Fund.*

21 *Amounts transferred in accordance with this subsection*
22 *shall be in satisfaction of certain outstanding obligations*
23 *for deemed wage credits for 2000 and 2001.”.*

24 (b) *CONFORMING AMENDMENTS.*—

1 (1) *REPEAL OF AUTHORITY FOR ANNUAL APPRO-*
 2 *PRIATIONS AND RELATED ADJUSTMENTS TO COM-*
 3 *PENSATE THE SOCIAL SECURITY TRUST FUND FOR*
 4 *MILITARY WAGE CREDITS.*—Section 229 of the Social
 5 *Security Act (42 U.S.C. 429) is amended—*

6 (A) *by striking “(a)”*; and

7 (B) *by striking subsection (b).*

8 (2) *AMENDMENT TO REFLECT THE TERMINATION*
 9 *OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR*
 10 *2001 BY SECTION 8134 OF PUBLIC LAW 107–117.*—Sec-
 11 *tion 229(a)(2) of the Social Security Act (42 U.S.C.*
 12 *429(a)(2)), as amended by paragraph (1), is amended*
 13 *by inserting “and before 2002” after “1977”.*

14 **SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-**
 15 **WORK FOR CHILDHOOD DISABILITY BENE-**
 16 **FICIARIES.**

17 (a) *IN GENERAL.*—Section 202(d)(6)(B) of the Social
 18 *Security Act (42 U.S.C. 402(d)(6)(B)) is amended—*

19 (1) *by inserting “(i)” after “began”*; and

20 (2) *by adding after “such disability,” the fol-*
 21 *lowing: “or (ii) after the close of the 84th month fol-*
 22 *lowing the month in which his most recent entitle-*
 23 *ment to child’s insurance benefits terminated because*
 24 *he ceased to be under such disability due to perform-*
 25 *ance of substantial gainful activity,”.*

1 *in section 414(e) of such Code) after the individual retires”*
2 *before the semicolon.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by this*
4 *section shall apply to years beginning before, on, or after*
5 *December 31, 1994.*

6 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**
7 **TIC EMPLOYMENT.**

8 (a) *AMENDMENT TO INTERNAL REVENUE CODE.*—*Sec-*
9 *tion 3121(a)(7)(B) of the Internal Revenue Code of 1986*
10 *is amended by striking “described in subsection (g)(5)” and*
11 *inserting “on a farm operated for profit”.*

12 (b) *AMENDMENT TO SOCIAL SECURITY ACT.*—*Section*
13 *209(a)(6)(B) of the Social Security Act (42*
14 *U.S.C. 409(a)(6)(B)) is amended by striking “described in*
15 *section 210(f)(5)” and inserting “on a farm operated for*
16 *profit”.*

17 (c) *CONFORMING AMENDMENT.*—*Section 3121(g)(5) of*
18 *such Code and section 210(f)(5) of such Act (42*
19 *U.S.C. 410(f)(5)) are amended by striking “or is domestic*
20 *service in a private home of the employer”.*

21 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**
22 **ERENCES.**

23 (a) *CORRECTION OF CITATION RESPECTING THE TAX*
24 *DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF*
25 *SELF-EMPLOYED INDIVIDUALS.*—*Section 211(a)(15) of the*

1 *Social Security Act (42 U.S.C. 411(a)(15)) is amended by*
2 *striking “section 162(m)” and inserting “section 162(l)”.*

3 (b) *ELIMINATION OF REFERENCE TO OBSOLETE 20-*
4 *DAY AGRICULTURAL WORK TEST.*—Section 3102(a) of the
5 *Internal Revenue Code of 1986 is amended by striking “and*
6 *the employee has not performed agricultural labor for the*
7 *employer on 20 days or more in the calendar year for cash*
8 *remuneration computed on a time basis”.*

9 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**
10 **PLOYMENT INCOME IN COMMUNITY PROP-**
11 **ERTY STATES.**

12 (a) *SOCIAL SECURITY ACT AMENDMENT.*—Section
13 *211(a)(5)(A) of the Social Security Act (42*
14 *U.S.C. 411(a)(5)(A)) is amended by striking “all of the*
15 *gross income” and all that follows and inserting “the gross*
16 *income and deductions attributable to such trade or busi-*
17 *ness shall be treated as the gross income and deductions*
18 *of the spouse carrying on such trade or business or, if such*
19 *trade or business is jointly operated, treated as the gross*
20 *income and deductions of each spouse on the basis of their*
21 *respective distributive share of the gross income and deduc-*
22 *tions;”.*

23 (b) *INTERNAL REVENUE CODE OF 1986 AMEND-*
24 *MENT.*—Section 1402(a)(5)(A) of the *Internal Revenue*
25 *Code of 1986 is amended by striking “all of the gross in-*

1 *come” and all that follows and inserting “the gross income*
 2 *and deductions attributable to such trade or business shall*
 3 *be treated as the gross income and deductions of the spouse*
 4 *carrying on such trade or business or, if such trade or busi-*
 5 *ness is jointly operated, treated as the gross income and*
 6 *deductions of each spouse on the basis of their respective*
 7 *distributive share of the gross income and deductions; and”.*

8 **SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RE-**
 9 **TIREMENT AND SURVIVORS’ IMPROVEMENT**
 10 **ACT OF 2001.**

11 (a) *QUORUM RULES.*—Section 15(j)(7) of the Railroad
 12 *Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended*
 13 *by striking “entire Board of Trustees” and inserting*
 14 *“Trustees then holding office”.*

15 (b) *POWERS OF THE BOARD OF TRUSTEES.*—Section
 16 *15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C.*
 17 *231n(j)(4)) is amended to read as follows:*

18 “(4) *POWERS OF THE BOARD OF TRUSTEES.*—

19 *The Board of Trustees shall—*

20 “(A) *retain independent advisers to assist it*
 21 *in the formulation and adoption of its invest-*
 22 *ment guidelines;*

23 “(B) *invest assets of the Trust in a manner*
 24 *consistent with such investment guidelines, either*

1 *directly or through the retention of independent*
2 *investment managers;*

3 “(C) *adopt bylaws and other rules to govern*
4 *its operations;*

5 “(D) *employ professional staff, and contract*
6 *with outside advisers, including the Railroad Re-*
7 *irement Board, to provide legal, accounting, in-*
8 *vestment advisory or management services (com-*
9 *ensation for which may be on a fixed contract*
10 *fee basis or on such other terms as are customary*
11 *for such services), or other services necessary for*
12 *the proper administration of the Trust;*

13 “(E) *sue and be sued and participate in*
14 *legal proceedings, have and use a seal, conduct*
15 *business, carry on operations, and exercise its*
16 *powers within or without the District of Colum-*
17 *bia, form, own, or participate in entities of any*
18 *kind, enter into contracts and agreements nec-*
19 *essary to carry out its business purposes, lend*
20 *money for such purposes, and deal with property*
21 *as security for the payment of funds so loaned,*
22 *and possess and exercise any other powers ap-*
23 *propriate to carry out the purposes of the Trust;*

24 “(F) *pay administrative expenses of the*
25 *Trust from the assets of the Trust; and*

1 “(G) transfer money to the disbursing agent
2 or as otherwise provided in section 7(b)(4), to
3 pay benefits payable under this Act from the as-
4 sets of the Trust.”.

5 (c) *STATE AND LOCAL TAXES.*—Section 15(j)(6) of the
6 *Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6))* is
7 amended to read as follows:

8 “(6) *STATE AND LOCAL TAXES.*—The Trust shall
9 be exempt from any income, sales, use, property, or
10 other similar tax or fee imposed or levied by a State,
11 political subdivision, or local taxing authority. The
12 district courts of the United States shall have original
13 jurisdiction over a civil action brought by the Trust
14 to enforce this subsection and may grant equitable or
15 declaratory relief requested by the Trust.”.

16 (d) *FUNDING.*—Section 15(j)(8) of the *Railroad Re-*
17 *tirement Act of 1974 (45 U.S.C. 231n(j)(8))* is repealed.

18 (e) *TRANSFERS.*—Section 15A(d)(2) of the *Railroad*
19 *Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2))* is
20 amended—

21 (1) by inserting “or the *Railroad Retirement Ac-*
22 *count*” after “*National Railroad Retirement Invest-*
23 *ment Trust*” the second place it appears;

1 (2) by inserting “or the Railroad Retirement
2 Board” after “National Railroad Retirement Invest-
3 ment Trust” the third place it appears;

4 (3) by inserting “(either directly or through a
5 commingled account consisting only of such obliga-
6 tions)” after “United States” the first place it ap-
7 pears; and

8 (4) in the third sentence, by inserting before the
9 period at the end the following: “or to purchase such
10 additional obligations”.

11 (f) *CLERICAL AMENDMENTS.*—Section 15(j)(5) of the
12 *Railroad Retirement Act of 1974* (45 U.S.C. 231n(j)(5)) is
13 amended—

14 (1) in subparagraph (B), by striking “trustee’s”
15 each place it appears and inserting “Trustee’s”;

16 (2) in subparagraph (C), by striking “trustee”
17 and “trustees” each place it appears and inserting
18 “Trustee” and “Trustees”, respectively; and

19 (3) in the matter preceding clause (i) of subpara-
20 graph (D), by striking “trustee” and inserting
21 “Trustee”.

1 **Subtitle D—Amendments Related to**
 2 **Title XVI**

3 **SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFRE-**
 4 **QUENT OR IRREGULAR INCOME AND CERTAIN**
 5 **INTEREST OR DIVIDEND INCOME.**

6 (a) *INFREQUENT OR IRREGULAR INCOME.*—Section
 7 1612(b)(3) of the Social Security Act (42 U.S.C.
 8 1382a(b)(3)) is amended to read as follows—

9 “(3) in any calendar quarter, the first—
 10 “(A) \$60 of unearned income, and
 11 “(B) \$30 of earned income,
 12 of such individual (and such spouse, if any) which,
 13 as determined in accordance with criteria prescribed
 14 by the Commissioner of Social Security, is received
 15 too infrequently or irregularly to be included;”

16 (b) *INTEREST OR DIVIDEND INCOME.*—Section
 17 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is
 18 amended—

19 (1) in paragraph (21), by striking “and” at the
 20 end;

21 (2) in paragraph (22), by striking the period
 22 and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(23) interest or dividend income from
 25 resources—

1 “(A) not excluded under section 1613(a), or
 2 “(B) excluded pursuant to Federal law
 3 other than section 1613(a).”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
 5 section shall be effective with respect to benefits payable for
 6 months in calendar quarters that begin more than 90 days
 7 after the date of the enactment of this Act.

8 **SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERI-**
 9 **ODS.**

10 (a) *UNDERPAYMENTS OF BENEFITS.*—Section
 11 1613(a)(7) of the Social Security Act (42 U.S.C.
 12 1382b(a)(7)) is amended—

13 (1) by striking “6” and inserting “9”; and
 14 (2) by striking “(or to the first 9 months fol-
 15 lowing such month with respect to any amount so re-
 16 ceived during the period beginning October 1, 1987,
 17 and ending September 30, 1989)”.

18 (b) *ADVANCEABLE TAX CREDITS.*—Section
 19 1613(a)(11) of the Social Security Act (42 U.S.C.
 20 1382b(a)(11)) is amended to read as follows:

21 “(11) for the 9-month period beginning after the
 22 month in which received—

23 “(A) notwithstanding section 203 of the
 24 Economic Growth and Tax Relief Reconciliation
 25 Act of 2001, any refund of Federal income taxes

1 *made to such individual (or such spouse) under*
2 *section 24 of the Internal Revenue Code of 1986*
3 *(relating to child tax credit) by reason of sub-*
4 *section (d) thereof; and*

5 *“(B) any refund of Federal income taxes*
6 *made to such individual (or such spouse) by rea-*
7 *son of section 32 of the Internal Revenue Code*
8 *of 1986 (relating to earned income tax credit),*
9 *and any payment made to such individual (or*
10 *such spouse) by an employer under section 3507*
11 *of such Code (relating to advance payment of*
12 *earned income credit);”.*

13 (c) *EFFECTIVE DATE.*—*The amendments made by this*
14 *section shall take effect on the date of enactment of this Act,*
15 *and shall apply to amounts described in paragraph (7) of*
16 *section 1613(a) of the Social Security Act and refunds of*
17 *Federal income taxes described in paragraph (11) of such*
18 *section, that are received by an eligible individual or eligi-*
19 *ble spouse on or after such date.*

20 **SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE**
21 **APPLICATION OF THE STUDENT EARNED IN-**
22 **COME EXCLUSION.**

23 (a) *IN GENERAL.*—*Section 1612(b)(1) of the Social Se-*
24 *curity Act (42 U.S.C. 1382a(b)(1)) is amended by striking*
25 *“a child who” and inserting “under the age of 22 and”.*

1 after the first day of such month, bear the same ratio
 2 to the amount of the benefit which would have been
 3 payable to such individual if eligibility had been re-
 4 stored on the first day of such month as the number
 5 of days in such month including and following the
 6 date of restoration of eligibility bears to the total
 7 number of days in such month.”.

8 (c) *EFFECTIVE DATE*.—The amendments made by this
 9 section shall be effective with respect to benefits payable for
 10 months that begin on or after 1 year after the date of enact-
 11 ment of this Act.

12 **SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BEN-**
 13 **EFITS TO CHILDREN WHO ARE BORN OR WHO**
 14 **BECOME BLIND OR DISABLED AFTER THEIR**
 15 **MILITARY PARENTS ARE STATIONED OVER-**
 16 **SEAS.**

17 (a) *IN GENERAL*.—Section 1614(a)(1)(B)(ii) of the So-
 18 cial Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is
 19 amended—

20 (1) by inserting “and” after “citizen of the
 21 United States,”; and

22 (2) by striking “, and who,” and all that follows
 23 and inserting a period.

24 (b) *EFFECTIVE DATE*.—The amendments made by this
 25 section shall be effective with respect to benefits payable for

1 months beginning after the date of enactment of this Act,
2 but only on the basis of an application filed after such date.

3 **SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME**
4 **AND RESOURCES.**

5 (a) *EXCLUSION FROM INCOME OF GIFTS PROVIDED*
6 *FOR TUITION AND OTHER EDUCATION-RELATED FEES.*—
7 *Section 1612(b)(7) of the Social Security Act (42 U.S.C.*
8 *1382a(b)(7)) is amended by striking “or fellowship received*
9 *for use in paying” and inserting “fellowship, or gift (or*
10 *portion of a gift) used to pay”.*

11 (b) *EXCLUSION FROM RESOURCES FOR 9 MONTHS OF*
12 *GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PRO-*
13 *VIDED FOR TUITION AND OTHER EDUCATION-RELATED*
14 *FEES.*—*Section 1613(a) of the Social Security Act (42*
15 *U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is*
16 *amended—*

17 (1) *in paragraph (13), by striking “and” at the*
18 *end;*

19 (2) *in paragraph (14), by striking the period*
20 *and inserting “; and”; and*

21 (3) *by inserting after paragraph (14) the fol-*
22 *lowing:*

23 “(15) *for the 9-month period beginning after the*
24 *month in which received, any grant, scholarship, fel-*
25 *lowship, or gift (or portion of a gift) used to pay the*

108TH CONGRESS
1ST SESSION

H. R. 743

AMENDMENT

Walsh	Weller	Wilson (SC)
Wamp	Whitfield	Wolf
Weldon (FL)	Wicker	Young (AK)
Weldon (PA)	Wilson (NM)	

NAYS—197

Ackerman	Hall	Neal (MA)
Alexander	Harman	Oberstar
Allen	Hastings (FL)	Obey
Andrews	Hill	Olver
Baca	Hinchee	Ortiz
Baird	Hinojosa	Owens
Baldwin	Hoeffel	Pallone
Ballance	Holden	Pascarell
Beccerra	Holt	Pastor
Bell	Hooley (OR)	Payne
Berkley	Hoyer	Pelosi
Berman	Inslce	Peterson (MN)
Berry	Israel	Pomeroy
Bishop (GA)	Jackson (IL)	Price (NC)
Bishop (NY)	Jackson-Lee	Rangel
Blumenauer	(TX)	Reyes
Boswell	Jefferson	Rodriguez
Boucher	John	Ross
Boyd	Johnson, E. B.	Rothman
Brady (PA)	Jones (OH)	Roybal-Allard
Brown (OH)	Kanjorski	Ruppersberger
Brown, Corrine	Kaptur	Rush
Capps	Kennedy (RI)	Ryan (OH)
Capuano	Kildee	Sabo
Cardin	Kilpatrick	Sanchez, Linda
Cardoza	Kind	T.
Carson (IN)	Kiecicka	Sanchez, Loretta
Carson (OK)	Lampson	Sanders
Case	Langevin	Sandlin
Clay	Lantos	Schakowsky
Clyburn	Larsen (WA)	Schiff
Conyers	Larson (CT)	Scott (GA)
Cooper	Lee	Scott (VA)
Costello	Levin	Serrano
Cramer	Lewis (CA)	Sherman
Crowley	Lipinski	Skelton
Cummings	Lofgren	Slaughter
Davis (AL)	Lowey	Smith (WA)
Davis (CA)	Lucas (KY)	Snyder
Davis (FL)	Lynch	Solis
Davis (IL)	Majette	Spratt
Davis (TN)	Maloney	Stark
DeFazio	Markey	Stenholm
Delahunt	Marshall	Strickland
DeLauro	Matheson	Stupak
Deutsch	Matsui	Tanner
Dicks	McCarthy (MO)	Tauscher
Dingell	McCarthy (NY)	Taylor (MS)
Dooley (CA)	McCollum	Thompson (CA)
Doyle	McDermott	Thompson (MS)
Edwards	McGovern	Tierney
Emanuel	McIntyre	Towns
Engel	McNulty	Turner (TX)
Eshoo	Meehan	Turner (TX)
Etheridge	Meeks (NY)	Udall (CO)
Evans	Menendez	Udall (NM)
Farr	Michaud	Van Hollen
Fattah	Millender-	Velázquez
Ford	McDonald	Visclosky
Frank (MA)	Miller (NC)	Waters
Frost	Miller, George	Watt
Gephardt	Mollohan	Waxman
Gonzalez	Moore	Weiner
Gordon	Moran (VA)	Wexler
Green (TX)	Murtha	Woolsey
Grijalva	Nadler	Wu
Gutierrez	Napolitano	Wynn

NOT VOTING—9

DeGette	Honda	Rahall
Doggett	Kucinich	Watson
Filner	Meek (FL)	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1407

Messrs. PALLONE, CARDOZA, LIPINSKI, MORAN of Virginia, SKELTON, Ms. MAJETTE and Mrs. MCCARTHY of New York changed their vote from "yea" to "nay."

Mr. CALVERT changed his vote from "nay" to "yea."

So the previous question was ordered. The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, I was unavoidably delayed for rollcall vote 22 due to a family emergency. Had I been present, I would have voted "no" on the previous question.

The SPEAKER pro tempore (Mr. QUINN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE TO HAVE UNTIL 5 P.M. WEDNESDAY, FEBRUARY 18, 2004, TO FILE REPORTS TO ACCOMPANY H.R. 3551, H.R. 3752, H.R. 1292 AND H. CON. RES. 189

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that the Committee on Science may have until February 18, 2004, at 5 p.m. to file the following late reports: H.R. 3551, Surface Transportation Research and Development Act of 2004; H.R. 3752, The Commercial Space Launch Amendments Act of 2004; H.R. 1292, Remote Sensing Applications Act of 2003; and H. Con. Res. 189, Celebrating the 50th Anniversary of the International Geophysical Year (IGY) and Supporting an International Geophysical Year-2 (IGY-2) in 2007-2008.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Mr. Speaker, pursuant to House Resolution 520, I call up from the Speaker's table the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes, with a Senate amendment thereto, and ask for its immediate consideration.

The Clerk read the title of the bill. The text of the Senate amendment is as follows:

Senate Amendment:
Strike out all after the enacting clause and insert:
SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Social Security Protection Act of 2003".

(b) *TABLE OF CONTENTS.*—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Sec. 107. Survey of use of payments by representative payees.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 204. Requirements relating to offers to provide for a fee, a product or service available without charge from the Social Security Administration.

Sec. 205. Refusal to recognize certain individuals as claimant representatives.

Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

Sec. 209. Authority for judicial orders of restitution.

Sec. 210. Authority for cross-program recovery of benefit overpayments.

Sec. 211. Prohibition on payment of title II benefits to persons not authorized to work in the United States.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

Sec. 302. Temporary extension of attorney fee payment system to title XVI claims.

Sec. 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.

Sec. 304. GAO study regarding the fee payment process for claimant representatives.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.

Sec. 407. Reauthorization of appropriations for certain work incentives programs.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.

Sec. 420. Post-1956 Military Wage Credits.

Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

Sec. 422. Technical correction relating to retirement benefits of ministers.

Sec. 423. Technical corrections relating to domestic employment.

Sec. 424. Technical corrections of outdated references.

Sec. 425. Technical correction respecting self-employment income in community property States.

Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.

Subtitle D—Amendments Related to Title XVI

Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.

Sec. 431. Uniform 9-month resource exclusion periods.

Sec. 432. Elimination of certain restrictions on the application of the student earned income exclusion.

Sec. 433. Exception to retrospective monthly accounting for nonrecurring income.

Sec. 434. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

Sec. 435. Treatment of education-related income and resources.

Sec. 436. Monthly treatment of uniformed service compensation.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)."

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph."

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the first sentence the following: "In any case in which a representative payee that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2)."

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

"(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection."

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii)."

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused."

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause

(I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(i) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate."

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

"(k) PERIODIC ONSITE REVIEW.—

"(I) IN GENERAL.—In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

"(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

"(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

"(2) REPORT.—Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(A) the number of such reviews;

"(B) the results of such reviews;

"(C) the number of cases in which the representative payee was changed and why;

"(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(E) the number of cases discovered in which there was a misuse of funds;

"(F) how any such cases of misuse of funds were dealt with by the Commissioner;

"(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(H) such other information as the Commissioner deems appropriate."

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended to read as follows:

"(C)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

"(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

"(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

"(I) the number of the reviews;

"(II) the results of such reviews;

"(III) the number of cases in which the representative payee was changed and why;

"(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(V) the number of cases discovered in which there was a misuse of funds;

"(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

"(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(VIII) such other information as the Commissioner deems appropriate."

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

"(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

(2) in subparagraph (B), by adding at the end the following:

"(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 202(x)(1)(A)(iv),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties."

(3) in subparagraph (C)(i)(II)—

(A) by striking "subparagraph (B)(i)(IV)," and inserting "subparagraph (B)(i)(VI)"; and

(B) by striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(ii)(VI)"; and

(4) in subparagraph (C)(i)—
(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

"(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

"(V) such person is person described in section 202(x)(1)(A)(iv)."

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

"(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(E) obtain information concerning whether such person is a person described in section 804(a)(2); and"

(2) in subsection (b), by adding at the end the following:

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(A) such person is described in section 804(a)(2),

"(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(C) the location or apprehension of such person is within the officer's official duties.";

(3) in subsection (d)(1)—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

"(E) such person is a person described in section 804(a)(2)."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

"(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and"

(2) in clause (iii)(II)—

(A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and

(B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)";

(3) in clause (iii)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

"(V) such person is a person described in section 1611(e)(4)(A)."; and

(4) by adding at the end the following:

"(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 1611(e)(4)(A),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.";

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Secretary" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner"

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to

which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(4) by inserting after paragraph (6) the following:

"(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

"(I) LIABILITY FOR MISUSED AMOUNTS.—

"(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (C)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:

“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.

“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.”

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

“(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

“(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to \$8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

“(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following:

“(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking “who” in the first sentence and inserting “who—”;

(B) by striking “makes” in the first sentence and all that follows through “shall be subject to,” and inserting the following:

“(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

“(B) makes such a statement or representation for such use with knowing disregard for the truth, or

“(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

“(D) by inserting “or each receipt of such benefits or payments while withholding disclosure of such fact” after “each such statement or representation” in the first sentence;

“(E) by inserting “or because of such withholding of disclosure of a material fact” after “because of such statement or representation” in the second sentence; and

“(F) by inserting “or such a withholding of disclosure” after “such a statement or representation” in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking “who” the first place it appears and inserting “who—”;

(B) by striking “makes” and all that follows through “shall be subject to,” and inserting the following:

“(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

“(2) makes such a statement or representation for such use with knowing disregard for the truth, or

“(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

“(4) makes such a statement or representation for such use with knowing disregard for the truth, or

“(5) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

“(6) makes such a statement or representation for such use with knowing disregard for the truth, or

“(7) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

“(8) makes such a statement or representation for such use with knowing disregard for the truth, or

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.";

(5) by adding at the end of paragraph (1)(B) the following:

"(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

"(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

"(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

"(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

"(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

"(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.";

(6) in paragraph (3), by adding at the end the following:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code

of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties.";

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(4)";

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed"; and

(D) by adding at the end the following:

"(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

"(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

"(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

"(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

"(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

"(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.";

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

"(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

"(B) the location or apprehension of the recipient is within the officer's official duties.";

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking "or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State" and inserting "or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE, A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.";

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.";

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including

any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor."

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) *IN GENERAL.*—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration"; by striking "or Medicaid," and inserting "Medicaid," "Death Benefits Update," "Federal Benefit Information," "Funeral Expenses," or "Final Supplemental Plan"; and by inserting "CMS;" after "HCFA";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) *IN GENERAL.*—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

"(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

"(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

"(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment."

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) *AMENDMENTS TO TITLE II.*—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

"(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

"(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in—

"(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

"(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 205(j).

"(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

"(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) *AMENDMENTS TO TITLE VIII.*—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) *COURT ORDER FOR RESTITUTION.*—

"(1) *IN GENERAL.*—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

"(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

"(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 807(i).

"(2) *RELATED PROVISIONS.*—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Com-

missioner of Social Security shall be considered the victim.

"(3) *STATED REASONS FOR NOT ORDERING RESTITUTION.*—If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4) *RECEIPT OF RESTITUTION PAYMENTS.*—

"(A) *IN GENERAL.*—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(B) *PAYMENT TO THE INDIVIDUAL.*—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual."

(c) *AMENDMENTS TO TITLE XVI.*—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

"(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

"(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 1631(a)(2).

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

"(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking "(1) If a person" and all that follows through "(2)".

(d) *EFFECTIVE DATE.*—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) *IN GENERAL.*—Section 1147 of the Social Security Act (42 U.S.C. 1320b-17) is amended to read as follows:

"CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

"(a) **IN GENERAL.**—Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

"(b) **LIMITATION APPLICABLE TO CURRENT BENEFITS.**—

"(1) **IN GENERAL.**—In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

"(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

"(B) in the case of benefits under title XVI, by an amount greater than the lesser of—

"(i) the amount of the benefit payable to the person for that month; or

"(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

"(2) **EXCEPTION.**—Paragraph (1) shall not apply if—

"(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

"(B) the person so requests.

"(c) **NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.**—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action—

"(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

"(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

"(d) **INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.**—Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

"(e) **PROGRAMS DESCRIBED.**—The programs described in this subsection are the following:

"(1) The old-age, survivors, and disability insurance benefits program under title II.

"(2) The special benefits for certain World War II veterans program under title VIII.

"(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66)."

(b) **CONFORMING AMENDMENTS.**—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

"(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147."

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking "any payment" and all that follows through "under this title" and inserting "any payment under this title"; and

(iii) by striking "; or" and inserting a period; (B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and (C) by adding at the end the following:

"(e) **CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.**—For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147."

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b-18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "excluding any other" and inserting "excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding"; and

(ii) by striking "50 percent of"; and

(B) by striking paragraph (6) and inserting the following:

"(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147."

(c) **EFFECTIVE DATE.**—The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) **FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.**—Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: ", and who satisfies the criterion specified in subsection (c)";

(2) in subsection (b), by inserting before the period at the end the following: ", and who satisfies the criterion specified in subsection (c)"; and

(3) by adding at the end the following:

"(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

"(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

"(2) at the time any such quarters of coverage are earned—

"(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act.

"(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

"(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States."

(b) **DISABILITY BENEFITS.**—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

"(C) if not a United States citizen or national—

"(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

"(ii) at the time any quarters of coverage are earned—

"(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act.

"(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)). and

"(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States."

(c) **EFFECTIVE DATE.**—The amendments made by this section apply to benefit applications based on social security account numbers issued on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) **IN GENERAL.**—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting ", except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

(2) by adding at the end the following: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) **IN GENERAL.**—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "section 206(a)" and inserting "section 206";

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(C) by striking "paragraph (2) thereof" and inserting "such section";

(2) in subparagraph (A)(i)—

(A) by striking "in subparagraphs (A)(ii)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)"; and

(B) by striking "and" at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

"(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

"(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

"(v) by substituting, in subsection (b)(1)(B)(ii), the phrase "deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)" for the phrase "determined before any applicable reduction under section 1127(a)"; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

"(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

"(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

"(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

"(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

"(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

"(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

"(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

"(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

"(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws."

(b) **CONFORMING AMENDMENTS.**—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "subsection (g)"; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "subsection (g)"; and

(B) in the matter following clause (ii), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "State".

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) **SUNSET.**—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) **IN GENERAL.**—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) **STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.**—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits

based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) **ASSESSMENT OF FEES.**—

(1) **IN GENERAL.**—The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) **DISPOSITION OF FEES.**—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) **NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.**—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) **REPORTS BY THE COMMISSIONER; TERMINATION.**—

(1) **INTERIM REPORTS.**—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) **TERMINATION DATE AND FINAL REPORT.**—The termination date of the demonstration project under this section is the date which is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of

the study and evaluation conducted pursuant to subsection (a).

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking "conducted under subsection (a)" and inserting "initiated under subsection (a) on or before December 17, 2005"; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005."

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(42 U.S.C. 401 et seq.)" and inserting "(42 U.S.C. 401 et seq.)" and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act."

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII."

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts en-

tered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act."

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) GAO REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b-20(d)) is amended by striking "2004" and inserting "2009".

(b) PROTECTION AND ADVOCACY.—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b-21(h)) is amended by striking "2004" and inserting "2009".

Subtitle B—Miscellaneous Amendments**SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.**

(a) **IN GENERAL.**—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

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

(1) in paragraph (1), by striking “section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(2) in paragraph (2), by striking “section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(3) in paragraph (3), by striking “paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)” and inserting “paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)”;

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking “241(a)” and inserting “237(a)”.

(b) TECHNICAL CORRECTIONS.

(1) **TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.**—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking “deportation” each place it appears and inserting “removal”;

(B) by striking “deported” each place it appears and inserting “removed”; and

(C) in the heading, by striking “Deportation” and inserting “Removal”.

(2) **REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.**—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting “or the Secretary of Homeland Security” after “the Attorney General” each place it appears.

(c) EFFECTIVE DATES.

(1) **IN GENERAL.**—The amendment made by—

(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) **SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.**—The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) **REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.**—The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) **WIDOWS.**—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”;

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”

(b) **WIDOWERS.**—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”;

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

“(E) the individual married the surviving husband within 60 days after the prior husband’s death.”

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking “clause (5) of subsection (c) or clause (5) of subsection (g)” and inserting “clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking “to taxes or contributions for similar purposes under” and inserting “exclusively to the laws applicable to”.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky, Louisiana,” after “Illinois”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

“Compensation, Expenses, and Per Diem

“(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **IN GENERAL.**—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

“(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual’s earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

“(i) such service did not constitute ‘employment’ as defined in section 210, or

“(ii) such service was being performed while in the service of the Federal Government, and constituted ‘employment’ as so defined solely by reason of—

“(1) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of

coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(1) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.

"(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

"(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

"(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments."

(b) CONFORMING AMENDMENTS.—

(1) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking "subsection (q) and paragraph (4) of this subsection" and inserting "subsections (k)(5) and (q)"; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking "subsection (q) and paragraph (2) of this subsection" and inserting "subsections (k)(5) and (q)".

(3) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking "subsection (q), paragraph (7) of this subsection," and inserting "subsection (k)(5), subsection (q)," and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER'S INSURANCE BENEFITS.—

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

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking "subsection (q), paragraph (2) of this subsection," and inserting "subsection (k)(5), subsection (q)."

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking "paragraph (5)" and inserting "paragraph (4)";

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by strik-

ing "paragraph (6)" and "paragraph (5)" (in clauses (i) and (ii)) and inserting "paragraph (5)" and "paragraph (4)", respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking "or (f)(4)" each place it appears and inserting "or (f)(3)".

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking "or (f)(3)" and inserting "or (f)(2)".

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking "or (f)(4)" and inserting "or (f)(3)".

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking "and 202(f)(5)" and inserting "and 202(f)(4)".

(5) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking "Except as provided in paragraph (4) of this subsection, such" and inserting "Such"; and

(B) by striking paragraph (4).

(c) EFFECTIVE DATE AND TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted "employment" as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b-13(a)(3)) is amended—

(1) by striking "who" after "an individual" and inserting "who" before "has" in each of subparagraphs (A) and (B);

(2) by inserting "(i) who" after "(C)"; and

(3) by inserting before the period the following: ", or (ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment".

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits."

(c) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended further by adding at the end the following:

"Disclosure to Governmental Employees of Effect of Noncovered Employment

"(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute 'employment' as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

"(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality."

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

"(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

"(1) \$624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) \$105,379,671 to the Federal Disability Insurance Trust Fund; and

"(3) \$173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001."

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.—Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107-117.—Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting “and before 2002” after “1977”.

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) IN GENERAL.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting “(i)” after “began”; and
(2) by adding after “such disability,” the following: “or (ii) after the close of the 84th month following the month in which his most recent entitlement to child’s insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and

(2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires” before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “described in subsection (g)(5)” and inserting “on a farm operated for profit”.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking “described in section 210(f)(5)” and inserting “on a farm operated for profit”.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking “or is domestic service in a private home of the employer”.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking “section 162(m)” and inserting “section 162(l)”.

(b) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis”.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions.”

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and”.

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS’ IMPROVEMENT ACT OF 2001.

(a) QUORUM RULES.—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking “entire Board of Trustees” and inserting “Trustees then holding office”.

(b) POWERS OF THE BOARD OF TRUSTEES.—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

“(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

“(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

“(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

“(C) adopt bylaws and other rules to govern its operations;

“(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

“(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

“(F) pay administrative expenses of the Trust from the assets of the Trust; and

“(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.”

(c) STATE AND LOCAL TAXES.—Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

“(6) STATE AND LOCAL TAXES.—The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to en-

force this subsection and may grant equitable or declaratory relief requested by the Trust.”

(d) FUNDING.—Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) TRANSFERS.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

(1) by inserting “or the Railroad Retirement Account” after “National Railroad Retirement Investment Trust” the second place it appears;

(2) by inserting “or the Railroad Retirement Board” after “National Railroad Retirement Investment Trust” the third place it appears;

(3) by inserting “(either directly or through a commingled account consisting only of such obligations)” after “United States” the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: “or to purchase such additional obligations”.

(f) CLERICAL AMENDMENTS.—Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking “trustee’s” each place it appears and inserting “Trustee’s”;

(2) in subparagraph (C), by striking “trustee” and “trustees” each place it appears and inserting “Trustee” and “Trustees”, respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking “trustee” and inserting “Trustee”.

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.

(a) INFREQUENT OR IRREGULAR INCOME.—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

“(3) in any calendar quarter, the first—

“(A) \$60 of unearned income, and

“(B) \$30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included.”

(b) INTEREST OR DIVIDEND INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking “and” at the end;

(2) in paragraph (22), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(23) interest or dividend income from resources—

“(A) not excluded under section 1613(a), or

“(B) excluded pursuant to Federal law other than section 1613(a).”

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) UNDERPAYMENTS OF BENEFITS.—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking “6” and inserting “9”; and

(2) by striking “(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)”.

(b) ADVANCEABLE TAX CREDITS.—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

“(11) for the 9-month period beginning after the month in which received—

“(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under

section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

"(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking "a child who" and inserting "under the age of 22 and".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NON-RECURRING INCOME.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

"(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

"(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be non-recurring income."

(b) DELETION OF OBSOLETE MATERIAL.—Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

"(B) In the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month."

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting "and" after "citizen of the United States,"; and

(2) by striking ", and who," and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months beginning after the

date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking "or fellowship received for use in paying" and inserting "fellowship, or gift (or portion of a gift) used to pay".

(b) EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking "and" at the end;

(2) in paragraph (14), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) For the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) TREATMENT OF PAY AS RECEIVED WHEN EARNED.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

"(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

MOTION OFFERED BY MR. SHAW

Mr. SHAW. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SHAW moves that the House concur in the Senate amendment to H.R. 783.

The SPEAKER pro tempore. Pursuant to House Resolution 520, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

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

Mr. Speaker, I am pleased to present to the House the Social Security Protection Act of 2003, bipartisan legislation that fights fraud and abuse in the Social Security programs.

In April, the House overwhelmingly passed this bipartisan bill by a vote of 396 to 28. In December, the Senate passed an amended version of the Protection Act unanimously. They did this by unanimous consent. Today, we have an opportunity to pass this essential legislation so that it be sent to the President and made law.

Workers, retirees, individuals with disabilities, survivors and their families have paid for and deserve better protection under Social Security and the enhanced vigilance against waste, fraud and abuse this bill provides.

First, this bill protects nearly 7 million beneficiaries who cannot manage their own affairs and rely on representative payees appointed by the Social Security Administration. It does this by raising payee standards, increasing oversight, and imposing stricter penalties on those who would mismanage the benefits entrusted to their care.

Second, this bill denies Social Security benefits to fugitive felons and probation/parole violators.

Third, it provides tools to further safeguard Social Security programs, including new civil monetary penalties for those who withhold information to get benefits and improving collection of overpaid benefits.

Fourth, this legislation closes a loophole in the law that has allowed an isolated group of public employees to receive full Social Security spouse and widow benefits that no other identical working spouse in America receives even when both pay into the Social Security program.

Finally, the bill helps people with disabilities by giving greater access to qualified representatives when applying for benefits, by improving work incentive programs, and by expanding eligibility for the Work Opportunity Tax Credit to encourage more employers to hire individuals with disabilities.

And, accompanying all of this, the taxpayers will save \$800 million over the next 10 years.

I thank Senators Grassley and Baucus of the Senate Finance Committee who offered to work with the Committee on Ways and Means and, of course, the gentleman from California (Mr. MATSUI) as we have done this on a bipartisan basis as they developed their amendments to the House-passed bill.

This amendment made a number of enhancements to the bill.

First, it increased overpayment collection by authorized recovery across Social Security and Supplemental Social Security Income program lines.

It provides for a 5-year nationwide demonstration project providing direct fee withholding for qualified nonattorneys who help individuals through the complex disability application process.

It provides additional time for the Social Security Administration to test initiatives to help individuals with disabilities return to work as well as extended funding for services that help individuals with disabilities return to work and keep working.

It provides for the ability to restart disability benefits based on their parent's work if an individual disabled in childhood tries to work but must later stop.

Lastly, enhancement and simplification of the Supplemental Security Income program, especially for members of the military and their families.

This bipartisan legislation has support of many organizations because it does what is right for the Social Security program, the people who pay into it and the people who benefit. It was developed in cooperation with the Social Security Administration and the Social Security Inspector General. It is also supported by AARP, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, and the National Organization of Social Security Claimants' Representatives.

□ 1415

This bill probably will not make the front page of your newspaper on kitchen tables tomorrow morning. That is unfortunate, as Social Security is one of our Nation's most important programs and constitutes our government's largest expense, consuming approximately one-quarter of our Federal budget and growing. It deserves our Nation's attention.

Protecting the most vulnerable beneficiaries and stopping Social Security from hemorrhaging precious dollars through fraud and benefit misuse is important and serves as a shining example of what Members of Congress can achieve for the American people when we work together.

I strongly urge my colleagues to vote "yes" and give workers and beneficiaries the protections that they deserve.

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

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

Today, we have before us the Social Security Protection Act. This legislation was developed over several years in conjunction with the Social Security Administration, its Inspector General, beneficiary representatives and others. The bill reflects a preconference agreement negotiated with the other body on a bipartisan basis and is supported by the Consortium for Seniors With Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, the National Organization of Social Security Claimants' Representatives and others.

I would like to take a few moments to highlight several items in this bill. The first deals with representative payees. Nearly 8 million Social Security and SSI beneficiaries who are unable to manage their own benefits have representative payees, including children, the mentally impaired and the very frail elderly. Most payees work hard to ensure that the benefits are spent to meet the beneficiary's needs. However, in some instances SSA's screening process for determining who should serve as a payee has failed to prevent the misuse of these benefits. This legislation gives SSA the tools it needs to

reissue benefits that are misused. It provides for penalties for those who would take advantage of some of our most vulnerable citizens. It also strengthens Social Security's oversight of these payees.

Second, the bill helps individuals with disabilities gain greater access to legal representation when filing for benefits. Social Security disability insurance beneficiaries already have this access, and the bill extends it to SSI claimants, as well, so they can get the needed help and ensure that their applications are fully considered.

Finally, and very importantly, the bill prohibits paying Social Security benefits to fugitive felons and to those who have violated probation or parole. It is my strong belief that we should not be supporting fugitives who are fleeing the law, and this bill will help bring them to justice.

Now, I would like to mention one provision in the bill that has generated some controversy. This is the provision that would modify an exemption to the government pension offset, or known as GPO, that is being used by some workers but is not available to all. My colleagues from Texas have discussed this specific provision in more detail during the debate on the rule and will discuss it further on this bill, but the larger issue here itself is the GPO. Across the country, people who have worked hard all their lives are unexpectedly faced with the loss of Social Security benefits that they had been counting on because of the GPO. The GPO, which was created in the 1970s and phased in during the 1980s, was designed to provide roughly equal treatment between people who work under Social Security and pay into the system and those who do not. It was designed to end a disparity between couples where in one couple, both members paid into the Social Security system and in another when one spouse paid into the system and the other spouse paid into a State retirement system. Unfortunately, we now know that the GPO often produces unfair results. It is a rough tool that clearly needs adjustments.

Let me illustrate my point. Research shows that a widow needs 80 percent of the income needed to support a couple. Because of the GPO, the couple's income from Social Security can drop to zero when the husband dies. On average, the reduction caused by the GPO is \$421 per month, which cuts the average widow's benefit in half, jeopardizing her ability to keep up with fixed costs of housing, health care and others that still exist after the death of her spouse.

We tried to address some of these problems with the GPO during the committee markup last year, but we were rejected on party-line votes. We were also denied the opportunity to address the larger GPO problem in the Rules Committee when the bill came before the House last April. Finally today, my good friend from Texas (Mr.

FROST) attempted to bring forward for debate a bill that would fully repeal the GPO, and he was denied that opportunity.

The will to solve the problem with the GPO is clearly an issue of priorities. My Democratic colleagues and I have been prevented from bringing this issue before the Congress over and over again, while my friends on the other side of the aisle have continued to push policies that benefit the wealthy at the expense of this important issue.

For example, the GPO affects 400,000 hardworking Americans every year and eliminating it would cost \$31 billion over 10 years. Not \$800 billion, not \$1 trillion, but it would cost \$31 billion over 10 years. In contrast, the 200,000 households that make more than \$1 million each year will see \$90 billion in tax cuts over that same period. That is half as many people being benefited at three times the cost. There are other examples of misplaced priorities. Congress could and should close corporate tax shelters and prevent companies from incorporating offshore. That would save \$30 billion over a 10-year period and that amount would actually take care of dealing with the 10-year period of eliminating the GPO completely.

This is an issue that should not go unaddressed any longer, and I hope that the Congress will make it a priority for consideration this year. While I am disappointed that we are not addressing this important issue today, there are many other provisions in this bill that I mentioned that will strengthen the Social Security system, and I intend to support this bill; but it is my hope that we do address the issue of the government pension offset because it is creating a great deal of consternation and damage to many people who obviously lose their spouse. I support the legislation, but I just hope that we can take some action on the GPO in the future.

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

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in strong support of the Social Security Program Protection Act. This bill contains important provisions to better protect disabled Americans, prevent fraud and abuse in Social Security programs, and help disabled beneficiaries return to work.

Over the years, the Committee on Ways and Means, on which I serve, has taken a number of steps to better protect Social Security recipients and other taxpayers. The bill we are considering today will make an important contribution to those continuing efforts.

I commend the gentleman from Florida (Mr. SHAW) for his leadership and persistence on this legislation over the course of several Congresses. I particularly want to thank him for including

provisions that will help bring criminals to justice, rather than subsidizing their flight, by preventing convicted fugitive felons and parole or probation violators from getting Social Security checks. These provisions build on my previous legislation that now has successfully blocked prisoners and fugitive felons from getting illegally millions of dollars in supplemental security income checks.

Please join me in supporting this legislation.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise today on behalf of the teachers in the State of Texas in strong opposition to this legislation.

H.R. 743 turns a 1-day loophole, which was a minor inconvenience, into a 5-year career deterrent. My office is flooded with letters from justifiably concerned teachers that do not want to be forced out of the classroom even one day earlier than when they are ready.

Mr. Speaker, I would like to know if the supporters of this bill are aware of the teaching shortage crippling our education system. Clearly they are not or they would not support the legislation before us today. They would not force teachers in Texas and Georgia to choose between retirement benefits and a career educating our children. If my colleagues were aware of these critical shortages, they would have surely stripped this provision from the legislation when they had an opportunity to do so almost a year ago. If they were aware of the growing teacher-student ratios in public schools, they would definitely honor our teachers with the retirement benefits they deserve by repealing the WEP and GPO. It could easily be done by passing H.R. 594. This bill, with 285 bipartisan cosponsors, would end this inequity not only for Texas teachers but for government employees throughout the country.

In 2002, 376,000 public servants had their Social Security spousal benefits affected by the GPO. Forty percent of these were widows and widowers, and 73 percent were women. These are hard-working people who are relying on full spousal benefits to live comfortably in their retirement. Many learn of the GPO when it is too late to change their retirement plans.

Yesterday, my office had the pleasure of speaking with Mrs. Carolyn Martin, a school librarian at Gregory-Portland High School in the coastal bend of Texas. Mrs. Martin was understandably concerned about her own future, but much more focused on the future of a teacher at her school who recently lost her husband over the holidays. This teacher has two children in college and, if H.R. 743 passes, will not be able to collect her widow's benefits under Social Security if she wants to stay in the classroom.

Mrs. Martin characterized the issue best. She said, "Social Security is the difference between a minimal standard

of living and a dog-food diet in retirement." She was outraged, as am I, and again I quote, that "millionaires can collect Social Security in this country but not Texas teachers."

Mr. Speaker, I implore my colleagues to consider the consequences of this vote today. Vote against H.R. 743.

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

I would like to point out at this time that even under this bill, the offset is only \$2 for every \$3 of pension received, whereas those of us who are going to depend on Social Security, those that depend on Social Security, the offset is a dollar for dollar. So the teachers that people are talking about and public employees that this might affect, they are still getting a much better deal than people who have paid into Social Security.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, this is a very important bill, and I rise in strong support of its passage; but I want to take just a few minutes to speak to a particular provision in this bill and the unfortunately contentious debate that surrounds it.

There is a lot of misinformation out there about the government pension offset provision, and I want to make sure everyone understands what we are talking about today. Under Social Security, spouses of covered workers who do not work outside the home themselves are entitled to spousal benefits. But if both spouses work, their spousal benefits are reduced, or offset, one dollar for every dollar of Social Security benefits that they themselves earn. This is true for every single couple in America that is covered by Social Security.

In Texas, many of our school districts have opted out of the Social Security system, instead using the Texas teachers retirement system, so that those district teachers and staff pay into the TRS, not Social Security. As a matter of fairness, the law says that if you pay into a different retirement system, like TRS, then your Social Security spousal benefits are offset by the benefits that you accrue in the other system. This is only fair, and it has been the law for a generation.

Unfortunately, a loophole exists in that law that says even if you work your entire career in the teacher retirement system and then work for just one day in another school district that uses Social Security, you are suddenly entitled to full spousal benefits under Social Security, as if you only worked one day in your entire life.

That is simply unfair, Mr. Speaker.

The offset law is in place to protect the spirit of Social Security, and the loophole violates that spirit.

□ 1430

Opponents of this provision are correct, though, when they say Texas teachers have been targeted for unfair

treatment. They have been targeted by their unions, Mr. Speaker, who have spread misinformation about the spousal benefit loophole. Not only has that misinformation been spread about this debate, but it is poisoning the retirement planning of deliberately misinformed Texas teachers.

In recent months some of our offices have gotten calls from single teachers who have been led to believe by their unions that they could qualify for the spousal benefit loophole when they have never even been married. That is the outrage, Mr. Speaker. Not this bipartisan effort to protect the Social Security system from waste, fraud, and abuse. Teachers in Texas and around the country will be just as protected by this bill as everyone else, which is the whole point of the Social Security system in the first place.

We are doing the right thing, and I urge my colleagues to vote yes.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, even though I hate to disagree with another Texan, particularly the majority leader, but let me tell the Members the real story. It is not the unions that are the problem. Congress made in 1983 Social Security participation by some local governments voluntary, school districts. In Texas, very few school districts participate in Social Security because they have a teacher retirement system. Some do. But the problem we need to address in this legislation that we are not and it makes it worse is that we have a widow's benefit under Social Security.

I do not care if they have never paid into Social Security at all. They receive a widow's benefit if they were married to someone for more than 10 years. And we have cases in Texas that educators, not just teachers, custodial staff, lunchroom staff, administrators, maybe even superintendents, the highest paid, but it covers so many people that they may work under that system their whole life. They are career educators, and yet they are married to someone who pays into Social Security for over 10 years, maybe 30 or 40 years, and when their spouse passes away, that person may be receiving teacher retirement then.

All of a sudden, they say, I should get my spousal benefit because I am a widow. Tough luck. That spouse they may have been married with for 30 years, they receive very little, in fact, almost nothing under their Social Security benefits.

That is what is wrong with the current law. That is why Texans innovatively have found a way, okay, we will go work a day. That is a loophole. Let me tell my colleagues I have watched lots of loopholes pass through this House in my six terms, but I am glad for one time maybe teachers are benefiting from it.

But that is why we need to reform the Government Pension Offset, and

that is why I wish the committee would deal with it. But, in all honesty, this is making a bad situation worse, because we will have Texan teachers who have committed their lives to our public schoolchildren and they will be retiring before this bill is effective if they have their magic number of years plus age, and they will retire because they will not want to lose their spousal benefits.

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

I tell the gentleman from Texas that I know he feels passionate about this and I can agree with his motivation with regard to this, but the simple fact arises that there is an offset for those where we have a spouse and a worker both paying into Social Security. We simply bring them pretty close down to where some people who are paying into Social Security and work every single day and pay under the Social Security program, and still we give the people he is talking about a better deal than the people who have really labored under Social Security only.

Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I rise on behalf of the 99 percent of the seniors in America who do not have a special loophole. I rise on behalf of the 99 percent of the widows in America who do not have a special loophole.

What we are discussing today is a situation where a very select few in America, sort of a second class, a higher class of citizens in America, get to keep a lot of Social Security, where their next-door neighbor who has paid into Social Security all their life get to keep much less.

What we are talking about here is a special loophole. The way it works today is that most of us pay into Social Security. My wife pays into Social Security. The husband pays into Social Security. But there are some who work for local governments or who are teachers like in Texas where they do not contribute to Social Security at work. They have a substitute, in this case a teacher retirement system. That is where their payroll taxes go. And very few of them have found a loophole in the law from 25 years ago that allows them to escape the formula that everyone else in America is applied to and receive much more in benefits than we will ever dream of receiving.

Here is the way the loophole works. In Texas, a teacher works their whole life, but they do not contribute to Social Security. Under this loophole, if they will take their last day and go to another school district and pay that school district to work for them, think about it, they pay \$500 so they can work one day at minimum wage for a school district. And, in return for working that one day at minimum wage, contributing about \$3 into Social Security, they receive on average \$93,000 of Social Security retirement that no one else in America gets, literally no one else in America gets, the

teacher in New York does not get, the nurse in Iowa does not get. The cleaning lady in our offices up here does not get this.

Let us compare how it works in real life so we can all see how it affects us and just what this loophole means. Take a look at the average Social Security recipient in America. The husband is getting about \$1,000 a month for Social Security; the wife's monthly retirement is \$700. For most of us, almost everyone who pays into Social Security, when that husband dies and the widow has her benefits, for 99 percent of America her benefits are going to be \$1,000 a month, using this example, which, by the way, is exactly the average for Americans. For those who are in government pensions, the ones who do not pay into Social Security, they receive more. Those widows receive \$1,233 more. They keep more of Social Security, having not paid into it, than those who have paid their whole life into it. That is the way the formula works.

But under the loophole we are closing today, it is even more outrageous. If we leave this loophole open, the teacher who only worked one day in Social Security will receive \$1,700 in monthly benefits, far greater than the widow who worked her whole life in Social Security. Amazingly, the loophole permits a spouse who only contributed to Social Security for one day to receive so much more than the widow who worked her whole life in Social Security, her whole life, and who receives a pittance of what this loophole provides for $\frac{1}{100}$ of 1 percent of all Americans.

We cannot have two classes of families in America, those who have loopholes for Social Security and those who do not. This loophole is unfair to working families. It drains hundreds of millions of dollars from the Social Security Trust Fund, which is why senior groups say close this loophole now. And it deserves to be closed.

Let me make a final point here. Under this loophole in Texas today, we have great teachers. We have wonderful teachers. My sister-in-law is one. We are here because of our teachers. But teachers are inherently fair, I think, like the rest of Americans; and if we look at loophole today, this college professor who worked one day in Social Security receives a ton of the money, but the cleaning lady in our offices receives a small fraction of it. If we leave the loophole open, the school superintendent who makes \$200,000 a year keeps a ton of Social Security. The checkout lady at the grocery store who has worked her whole life and still working now, she gets a pittance of it. The teacher in Texas gets a ton of money. The teacher in Iowa and Ohio and New York and California gets a pittance.

Those who want to keep this loophole open want to create two classes in America. It is inherently unfair to do that. It is right to close this loophole. It is wrong to have two classes of fami-

lies in America. It is time to make Social Security fair.

Mr. LAMPSON. Mr. Speaker, will the gentleman yield?

Mr. BRADY of Texas. I yield to the gentleman from Texas.

Mr. LAMPSON. Mr. Speaker, one quick, simple question. Who earns the benefits that the teacher's spouse, who ultimately goes off and takes advantage of that loophole, who earns the benefits he or she is trying to get?

Mr. BRADY of Texas. The husband. Mr. LAMPSON. The spouse earns them. Those are earned dollars; right or not?

Mr. BRADY of Texas. Yes.

Mr. LAMPSON. They are earned dollars?

Mr. BRADY of Texas. Yes.

Mr. LAMPSON. Mr. Speaker, so what we are going to say is we will dilute what was earned by that family. Yes or no?

Mr. BRADY of Texas. No.

Mr. LAMPSON. Explain.

Mr. BRADY of Texas. Mr. Speaker, because in America when both spouses pay into Social Security, the formula, the way it works, is that if their husband passes away, which normally happens first, she keeps all of her Social Security. Then she keeps all of his minus hers. That is the formula. For those in government pensions, like teachers, it is almost the exact same formula. They keep their retirement plus their husband's minus only $\frac{1}{3}$.

So I appreciate this is an issue dear to the gentleman from Texas's (Mr. LAMPSON) heart, but under the formula today, that teacher, that government worker already keeps more of their spouse's Social Security than the rest of America. And if we keep the loophole open, they gain nearly twice as much as the family that worked exactly the same hours, paid exactly the same money in, and whose husband died exactly at the same time. We are creating those two classes of families in America, and that is what we are trying to stop.

Mr. LAMPSON. But all paid in by the husband and spouse?

Mr. BRADY of Texas. Mr. Speaker, the husband paid in in one; the husband and wife paid in in both; and the husband and wife, the widow who paid her whole life, she gets less. Two classes of citizens in America. And nowhere do I know in America can one work one day, contribute \$3, and take home \$93,000 in their pocketbook that the widow next door who worked her whole life will never, ever see. It is time to close this loophole.

Mr. MATSUI. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from the State of Maryland (Mr. CARDIN), member of the Committee on Ways and Means.

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

Mr. CARDIN. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI) for yielding me this time.

Let me concur in the comments that the gentleman from California (Mr. MATSUI) made earlier where I think he gave a very good explanation, the Government Pension Offset and the issues concerning it and then what is in this bill generally, which have very good things to help shore up a system that is very important to millions of Americans, our Social Security system.

I listened to debate about the Government Pension Offset and the problems in Texas, and I think the point that many of us are trying to raise is that there may be a problem in what is happening in Texas, but why are we not reforming the Government Pension Offset? The distinguished gentleman from Florida (Mr. SHAW) has a bill in to reform that. The gentleman from Louisiana (Mr. JEFFERSON) has a bill in to deal with it.

It is an issue that cries out for reform because we are not treating particularly our lower-wage workers appropriately with the Government Pension Offset. I think we have all acknowledged that this is an issue that we need to take up. This was an excellent opportunity for us to correct it, and we will lose that opportunity.

In regards to the underlying bill itself, I compliment the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) and Commissioner Barnhart and our colleagues on the other side of the Capitol for working together to develop a bipartisan bill to strengthen Social Security, particularly as it relates to individuals who have disabilities who are collecting Social Security, "representative payees."

We know, we have reports, of people who are not able to manage their own money. We know that in 2,400 cases over \$12 million dollars has been lost, and this bill will help clean that up, and that is important for us to deal with that.

We also know, in regards to the Ticket to Work law and the Work Incentives program that helped disabled individuals, that we are strengthening those programs. We are helping claimants who are applying for SSI to get the funds that they need.

So there are important provisions in this bill that have been worked out by Democrats and Republicans working together. That is the way we should work. It is a good bill. But we should have taken care of the Government Pension Offset, and we have not done that in this bill.

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

In just a brief response to the gentleman from Maryland, he correctly described my intentions, but the bill has not yet been prepared. As soon as we get some figures back, I intend to work closely with the gentleman from California (Mr. MATSUI) and other members on our Committee on Ways and Means to make this a bipartisan effort on the Government Pension Offset, where it is still very much a work

in progress, and we want to be sure that we can get it right. If it can be bipartisan, I think the gentleman from California (Mr. MATSUI) and I have both learned that we can accomplish a lot more by working together than working separately.

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

□ 1445

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member and the chairman, and I thank my good friend from Texas as well. I will try to speak quickly. Many of us are managing a number of activities, and committees are going on as we speak.

I just quickly want to say that although we appreciate the work of this bill, we have to rename it. It is called the "Forced Work Bill."

I think what is going on on this floor is a lot of smoke and mirrors. There are good points to this bill. Someone got up on the floor and said you are asking the widows and others to do things and to get benefits that others are not. That is absolutely incorrect. If we had supported the Frost motion to fix this problem by stripping section 418, which would penalize firefighters, police officers and teachers, we would not be standing here saying vote "no" on this bill.

What this bill is doing is those who are in an independent pension system are now forbidden from getting their spousal benefit. It is the benefit that their spouse is owed. It is not that they are getting any monies that are not owed them; it is that they are prohibited from getting those monies because they are not in the Social Security system. If they are not in the Social Security system, they are forbidden from getting the money.

All we are asking to do is support teachers, police officers, firefighters and other public servants. The GPO affects many individuals, but it especially is harmful to these public servants. And we are not snatching anything from someone who has gotten this benefit. We are trying to get what is ours. The only reason we cannot get it if we happen to be a teacher, policeman or firefighter is because we are not in the Social Security system.

So this is a lot of smoke and mirrors; and if I have to stand with anyone, I am going to stand with the hard-working teachers, firefighters and police officers, who are merely trying to get what is theirs. If we do not remedy this problem, then you force those who have worked all of their lives and are due for retirement to work another 5 years in order to get equity for something that is owed to them.

I wish our colleagues would tell the truth and stand for teachers, firefighters and police officers, like the rest of us.

Mr. Speaker, I am saddened to have to come to the floor today to speak out yet again against H.R. 743, The Social Security Protection Act of 2003. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in their government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of the The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of the that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to \$5,000 if they knowingly provided false or misleading information.

The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program. Obviously there is a lot of good in the last bill and in this bill as well.

The last bill passed unanimously in the House in the 107th Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of 2002. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as "poison for Texas school employees." That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the "last day rule," an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so until now many teachers have been forced to take

advantage of the "last day" loophole. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK MCKEON, and 285 others to do just that.

Instead, the bill before us today closes the loophole by forcing teachers to work for the last five years of their careers in an appropriate job. That may force many teachers to retire early from teaching. I am usually all for getting rid of loopholes, but now is no time to be "sticking-it" to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, I received one call from a woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose \$360 per month in retirement benefits—over \$4000 per year.

Why should she risk it? If H.R. 743 passes today, it won't be only she that loses. It will be our nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I am proud to stand with my Democratic colleagues from Texas, to fight for our teachers. I will vote "no" on H.R. 743 unless the offending provision is taken out, and urge my colleagues to do the same.

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

Mr. Speaker, I would have to correct the previous speaker when she says they do not get any of their survivor benefits and advise her that, yes, under this bill, the teachers that she is referring to get one-third of the survivor benefits, even after the offset, whereas if you have a similar situation where a teacher teaching where there is not this loophole and pays into the Social Security system, generally in that same example they get zero. So I just want to be sure the record is correct on that.

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

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me just quickly say I appreciate the attempt to correct some portions of this bill, but that is not enough.

Again, let me emphasize the one-third. What I am suggesting is that the

only reason these individuals are penalized is because they are in a parallel system; they are not in the Social Security system, which in fact helps to relieve the Social Security system from the burden of more people being in it.

I would only say, do you not think if you worked a full-term and you are owed these benefits through your spouse that you deserve the full benefits and not one-third? Why penalize firefighters, police officers, and teachers? I will support these Texas public servants having full benefits.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY) a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I would like to make two points. This bill does not address firefighters or police officers or teachers, and not even all the teachers in Texas. It applies to 1/100 of 1 percent of all Americans who have a special loophole.

The point my good friend from Houston was making is absolutely wrong. They do not receive less money because they do not pay into Social Security; they actually get more money than the widows and the families who have spent their whole life paying into Social Security. They already get this. Under this loophole, they would get, for \$3 of work, 1 day, they receive \$93,000 on average in retirement; and our widows in hospitals and widows that clean our offices and widows, like my mom, will never see that money.

This is about not creating two classes of citizens in America, those with a special loophole and those without.

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

Mr. Speaker, I would just like to make an observation. I would not have so many problems with this were it not for the fact that there are many other loopholes that have actually been passed through this House over the last few years.

For example, if a corporation in the U.S. goes to Bermuda to avoid U.S. taxes, we tried time and time again to close that loophole. But the other side of the aisle, in fact the gentleman who just spoke, denies the ability for us to even bring such a bill to the floor.

I guess that is where the frustration lies, is when we close loopholes, we pick on the people that are firefighters and teachers; but we let large corporations who avoid U.S. taxes go from that.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from the State of Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is a complex issue and one that touches an awful lot of us in different kinds of ways. While I certainly support the efforts that this committee has made in developing this bill, and I know how important the bill is, I am still going to vote against it and will oppose it and ask my colleagues to do so.

There are some 50,000 teachers across the State of Texas who will indeed be adversely affected by this legislation. The bill includes provisions which I consider to be catastrophic for Texas teachers. Provisions in the legislation would, in effect, reduce the amount of combined benefits that Texas teachers could depend upon after retirement.

There are many Texas teachers who have worked and paid into Social Security in other jobs. My wife and my daughter are two who have done just that. They have moved, and they have paid into the teacher retirement system now. Susan has paid into the Social Security system for many years in other jobs that she held before she decided to teach. Because of her involvement in the teacher retirement system and because she has paid into her pension fund, she will be adversely affected by the government pension offset. Those are benefits that I earned because of my payment into Social Security.

Teachers do not make a great deal of money in the State of Texas, and in most other places as well; and it is hard to entice them to stay in the classroom. This legislation is going to have broad implications for those teachers and will most likely force many of them to leave this profession early, most likely, from our public schools. What impetus does an experienced teacher have to stay in the classroom and continue teaching, if the government is in effect going to significantly reduce his or her retirement payment potential after this year?

This bill fails to address a larger issue for public servants in this country. The government pension offset unfairly penalizes teachers and many other government workers, the employees who mostly pay into a public pension plan. How can we sit by idly while our public service employees are being penalized for serving their communities? Where is our loyalty to the first responders that so many of my colleagues have praised on this floor? When push comes to shove, are we willing to allow the firefighters and police officers in our hometowns to suffer?

The government pension offset is a deterrent to public service across this Nation; and if we are to attract the best and the brightest into public service, such as our teachers, such as my wife, Susan, and my daughter Stephanie, fire fighters and police officers, we must repeal this unfair provision. This is money that hardworking American citizens have earned and are indeed entitled to.

I truly wish, and I intended to make the point the gentleman from California (Mr. MATSUI) made a minute ago, I wish we would work as hard in repealing the loophole that has allowed corporations to avoid the payment of \$40 billion in taxes each year by moving their corporations offshore.

I urge my colleagues to consider a "no" vote on this bill, as I am going to vote against H.R. 743. Our public servants deserve our support.

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

Mr. MATSUI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, again I thank our ranking member on our Subcommittee on Social Security and also the chairman of the Subcommittee on Social Security. I know we have a difference of opinion on this issue; and I guess it is frustrating, because with what is happening with our general budget, this year, this Congress and this government will take \$155 billion and borrow it from the Social Security trust fund, and what is it paying for? A lot of folks will say it is paying for the war in Iraq. No, it is also paying for tax cuts that this House passed on two different occasions. But by this bill today, we are going to take away these same Social Security trust funds that are for these widows and people who paid into Social Security.

Again, let me explain to my colleagues, these are people who may never have paid into Social Security. If they did, they are subject to government pension offset, like everyone. But these people never paid in. They were educators or firefighters or police officers in a system that was not part of Social Security, but they paid into their own pension fund; and if their spouses die and they have been married for less than 10 years, we will not pay them their spousal benefit.

I do not know how much harder this Congress can get. When we talk about giving tax cuts to everybody in the world, and we let companies move their headquarters overseas as a sham, and yet we are going to remove the Social Security benefits from a widowed educator, and typically 80 percent of them are women, and her only problem was that she taught school or worked in the cafeteria or helped clean up schools. Because their husband was a Social Security beneficiary, he paid into Social Security, maybe for their whole work life, and so you remove it.

It is just frustrating that this bill is going to make a bad system even worse. That is why I rise in opposition to H.R. 743 and urge my colleagues to join in voting against it.

In many ways, 743 is a good bill, and I know there are some good parts in it, and I heard my colleagues on both sides. It would help stem fraud and abuse in the Social Security system. Well, I support that. I agree that fugitive felons should not collect Social Security benefits. And I support a number of other provisions. But, in all honesty, if we have a fugitive felon getting Social Security benefits, why are they still a fugitive?

Unfortunately, this has been wrapped up in an explosive issue that has caused serious harm to educators who are widowed by someone who has paid into Social Security.

We are all familiar with the unfair government pension offset; 285 Members of this House have cosponsored

legislation to reform the GPO. This provision of current law keeps public employees from collecting full spousal benefits if they receive a pension based on State, local, or Federal Government employment not covered by Social Security. This provision is unfair and targets government workers at the Federal, State, and local levels. Again, 285 of us think it ought to be reformed.

The GPO is a problem for many public servants, but it is especially bad for women. Eighty percent of the Texas school teachers and retirees are women, sixty percent of that group are married, and almost all of them are eligible for Medicare through their husbands; but none of them are eligible for their spousal benefit because of the GPO under this bill.

After a lifetime of being underpaid as teachers, they depend on their Social Security widow's benefit to make up for their retirement, but the GPO takes that benefit away. That is why, again, the repeal of H.R. 594 is so popular.

The bill by our colleagues, the gentleman from California (Mr. MCKEON) and the gentleman from California (Mr. BERMAN), have, again, garnered 285 bipartisan cosponsors. We had an opportunity to address this in H.R. 743; but instead of fixing the GPO, this bill makes it harder for Texas teachers to collect the full spousal benefit. Again, 285 members agree the GPO is unfair and should be repealed. We should not penalize Texas teachers for figuring out a way to do what this Congress will not do.

I urge my colleagues to stand for public servants everywhere and vote against H.R. 743.

□ 1500

Mr. MATSUI. Mr. Speaker, may I inquire as to how much time I have remaining.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from California (Mr. MATSUI) has 7½ minutes remaining; the gentleman from Florida (Mr. SHAW) has 12½ minutes remaining.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. TURNER), the ranking member of the Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Speaker, it does not happen very often on the floor of this House where a bill comes forward that has many good provisions in it, but there is one provision that is so damaging and so harmful and so unfair that it causes us to oppose an otherwise good bill. But as my colleagues have heard over and over again today in this debate, public school teachers in places like my State of Texas and other government employees feel very strongly that the government pension offset is wrong, that it must be corrected, the law must be changed; and this bill provided an opportunity to correct that injustice.

I know from personal experience how deeply this issue is felt by public

school teachers. It was a couple of years ago in my office that I had a lady come to see me, and I really did not know why it was she really wanted to come see me, but my staff had said this lady really wants to talk to you, she needs to see you. So I said, well, let her come on, I would be glad to visit with her. I had no idea what it would be about.

She came and she began to tell me a story that quickly turned to tears in her eyes when she told me about how her husband had passed away just a few months before. After his death, she learned that she would not be able to collect any of the survivor benefits that she believed, rightfully, her husband had earned by a lifetime of contributions to the Social Security system. She explained to me that the law apparently said that because she was a public school teacher, an honorable profession, that somehow the law said that she could not qualify for survivor benefits that her husband had contributed for years to ensure that she would get. She told me, she said, if I had done anything else, if I had just worked in a private company, they tell me that I could get the survivor benefit; but because I am a teacher and receiving a benefit from the teacher retirement system, that I am disqualified. Her tears turned to anger as she said to me, this is wrong. And as I have learned over the years since, teachers all across my State of Texas feel very strongly about the unfairness of this provision of the Social Security law.

So I think with an overwhelming majority of this House having signed on to a bill to eliminate this offset, that we should have, in good conscience, taken the opportunity in this legislation to have corrected that unfair provision of the Social Security law.

I recognize that there are some who have logical arguments as to why this should not be changed, but I will tell my colleagues that after listening to this widow with tears in her eyes, I became convinced that she had the better side of the argument. Oh, I know it is going to have a cost to the Social Security trust fund to provide this benefit to all of these public school teachers who have had spouses who have passed away before them, but the reality is that getting it fixed is the right thing to do.

I would urge my colleagues today to take what will be perhaps somewhat of a difficult step and join with those of us who have stood on this floor arguing about this point for this entire hour of debate and vote against a bill that is otherwise a good bill, to give us the opportunity to correct what we believe, and many, many public employees believe, is a very unfair provision of the Social Security law.

I want to commend the gentleman from Florida for his leadership on Social Security. I know that he differs with us on this issue, but I hope that the Members who have joined on in supporting the McKeon bill to correct

this problem will also join with us today to vote against this bill so that once and for all we can do what is right for our teachers and for our public employees.

Mr. MATSUI. Mr. Speaker, I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in looking at what is right, it is right to protect beneficiaries from representative payees who would misuse these benefits. We all agree on that, whether you are from Texas, Georgia, California, or New York. It is right to deny Social Security benefits to fugitive felons and probation parole violators. We can all agree on that. It is right for this Congress to pass a bill that deters waste, fraud, and abuse. That is in this bill, and that is the right thing to do. It helps individuals with disabilities gain access to representation, and it encourages disabled beneficiaries to return to work. That is the right thing to do.

Now we get to the hard question: Is it right to close a loophole that enables some teachers in Georgia and Texas to contribute just a few dollars to Social Security to receive nearly \$100,000 in additional lifetime spousal benefits? I strongly believe this loophole should be closed.

Let me give an example which I think would be very helpful to the Members in deciding how they are going to vote on this issue. Any worker, corporate, executive, otherwise, or school teacher who pays into both Social Security and a retirement plan will receive both benefits based upon their work. However, no worker will receive a full spouse or widower benefit; those benefits are reduced or eliminated dollar for dollar by the earned Social Security benefit. Public employees who contribute to a public employee pension plan instead of Social Security actually face a lower, a lower offset under this bill of their spouse or widow benefits than workers who paid into Social Security their whole career. And that is only \$2 for every \$3. So these people who did not pay into Social Security are getting a better deal than people who paid into Social Security their whole working lives.

Also, this bill has bipartisan support and the support of key stakeholders, and it does save us money. This same identical bill was passed, almost identical bill, was passed by the House by a vote of 396 to 28. It passed. And then it passed by unanimous consent in the Senate with some minor changes, which is the reason we are back here today.

If we were to look at the arguments that have been made today as to what is fair and what is not fair and apply those same arguments as to spousal benefits, surviving spouse benefits to people who have paid into Social Security all their working life, it would cost the Social Security Administration \$1 trillion and would bankrupt the system. This is what we are facing:

basic fairness. I say, apply the law as this bill outlines it. It is fair. It is the right thing to do. I urge passage of the bill.

Mr. STARK. Mr. Speaker, today I rise in support of the Social Security Program Protection Act.

This legislation makes a strong Social Security program even stronger for the millions of Americans who rely on its benefits for stability through old age, disability or loss of a loved one. And this bill will help to protect the promise of economic security for future generations—a promise we must keep.

I strongly support the protections this legislation provides for some of the most vulnerable recipients of Social Security. Today, many beneficiaries are unable to manage their own benefits so a representative payee is often appointed to do so on their behalf. While this is undoubtedly necessary, too many seniors and people with disabilities have fallen victim to fraud and abuse.

This bill makes dramatic improvements to the representative payee system to help protect beneficiaries. It does so by initiating strict oversight of representative payees and expanding the ability of the Social Security Administration to repay benefits that have been misused or stolen. For many, this puts real financial security back in Social Security.

Despite the strengths of this bill, I am disappointed, however, that Republicans refused to accept an amendment I offered to this bill in the Ways and Means Committee to reduce the Government Pension Offset penalty. This penalty unfairly reduces or even eliminates Social Security benefits for millions of teachers, firefighters, police officers and others who serve the public.

I urge my colleagues to vote for the Social Security Program Protection Act to extend the promise of retirement security for every American, today and tomorrow.

Mr. PAUL. Mr. Speaker, I intend to vote for H.R. 743, the Social Security Protection Act, because it contains an important provision that was not included in previous versions of this bill. This provision takes a first step toward ensuring that non-citizens who are unauthorized to work in the United States do not receive Social Security benefits. Giving Social Security benefits to illegal immigrants is a slap in the faces of Americans who pay their entire working lives into the Social Security system and now face the possibility that there will be nothing left when it is their turn to retire. This is why, at the beginning of the 108th Congress, I introduced legislation, the Social Security for American Citizens Only Act (H.R. 489), which ensures no non-citizen can receive Social Security benefits. Therefore, I am pleased to see Congress beginning at last to address this issue.

However, I wish to make clear my continued opposition to a provision in the bill that removes the only means by which many widowed Texas public school teachers can receive the same personal Social Security benefits, as does every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the nation, have their spousal Social Security benefits reduced if they receive a government pension. The Government Pension Offset even applies if the public employee in question worked all the quarters necessary to qualify for full Social Se-

curity benefits either before or after working in the public school system.

The Government Pension Offset punishes people for teaching in public schools. However, current law provides widowed Texas public school teachers a means of collecting a full Social Security spousal benefits. Unfortunately, this bill takes that option away from Texas teachers. I have twice voted against H.R. 743 because of my strong opposition to the provision removing the only way Texas teachers can avoid the Government Pension Offset.

Instead of repealing the only means Texas teachers have of avoiding the Government Pension Offset, Congress should pass H.R. 594, the Social Security Fairness Act that repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full Social Security benefits.

Congress should also be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (H.R. 613) that provides every teacher with a \$1,000 tax credit, as well as my Professional Educators Tax Credit Act (H.R. 614), which provides a \$1,000 tax credit to counselors, librarians, and all school personnel.

In conclusion, Mr. Speaker, I will support H.R. 743 because it restricts the ability of illegal immigrants to raid the Social Security Trust Fund. However, I remain opposed to the provision that punishes teachers by denying them Social Security benefits for which they would be eligible if they were not teachers. Instead of punishing teachers, Congress should be enacting pro-teacher legislation, such as the Social Security Fairness Act and the Teacher Tax Cut Act.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 743, the Social Security Protection Act. This bill will protect the integrity of the Social Security program for the nearly eight million Social Security and Supplemental Security Income (SSI) beneficiaries who are unable to manage their own financial affairs and must have a "representative payee" designated to receive and manage their benefits on their behalf.

I would, however, like to take this opportunity to discuss an important Social Security issue that this bill fails to address, the Government Pension Offset (GPO). This unjust, arcane law prevents government retirees from collecting a government pension and the Social Security benefits entitled to them through their spouse's history of employment.

The GPO current affects 335,000 people, a number that is growing by 15,000 each year. The people hit hardest by the GPO are State and municipal workers. Public employees like educators, police officers, and firefighters should not suffer a penalty for dedicating their lives to public service.

Take, for example, a teacher who has worked for 30 years and with her husband has managed to raise a family. After her husband passes away, the law prevents her from receiving most, if not all, of the Social Security benefits that her husband earned and rightfully belong to her. She would lose the benefits simply because she worked for the government making a modest salary.

Mr. Speaker, Congressman BUCK McKEON has introduced H.R. 594, which would address the Government Pension Offset issue. Even though the bill currently has 285 cosponsors,

the House leadership has failed to bring it up for a vote.

Mr. Speaker, I have heard countless people say that teachers, police officers and firefighters deserve to be paid better for their public service. Fixing the GPO is our chance to say thanks to these selfless individuals whose work has helped make this country what it is today. I ask my colleagues on both sides of the aisle to urge the leadership to bring this issue to the floor during this session of Congress.

Mr. REYES. Mr. Speaker, I rise in strong opposition to H.R. 743, the Social Security Protection Act. I support provisions in the bill to better protect Social Security beneficiaries from fraud. However, I cannot support the legislation because it would also seriously harm the retirement of teachers, firefighters, police officers, and other State and local government workers in my congressional district of El Paso, Texas by subjecting them to the government pension offset.

Some public employees in my State have found a way to protect their retirement benefits from the unfair government pension offset, which targets public servants by refusing them their full spousal benefits under Social Security. The bill before us today would block these employees from protecting their benefits, subjecting them to the government pension offset and denying them the spousal benefits they rightfully deserve.

Among those hardest hit by this legislation will be women, and particularly widows, who very often rely on spousal benefits to make ends meet in their retirement. Many are not aware of the government pension offset, and will only learn of it as they prepare for retirement, when it is too late to make alternative plans.

We need to do more to support those who have dedicated their working lives to serving the public, rather than undermining their opportunity for a secure retirement with this bill. Therefore, I have cosponsored H.R. 594, the Social Security Fairness Act, which would allow all public employees to collect full spousal benefits.

Mr. Speaker, I urge my colleagues to show their support for teachers, and all of our hard-working public servants, by opposing this terribly unfair bill.

Mr. DELAHUNT. Mr. Speaker, I rise today to highlight the inexplicable failure of the U.S. Congress to address the inequities of the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP). For more than 20 years, the GPO and WEP have created enormous burdens for many public service retirees.

More than half of the Members of this House want change; no fewer than 285 of my colleagues have co-sponsored bipartisan legislation for outright repeal of the GPO and WEP. But the House leadership won't even allow debate on the question.

The legislation before this chamber today will help protect many vulnerable beneficiaries from fraud and contains many other important provisions. However, once again, the House missed a perfect opportunity to repeal both the GPO and WEP.

Both the GPO and WEP unfairly reduce Social Security benefits for retirees who otherwise qualify, simply because they at some point worked in jobs covered by another government pension. In particular, the GPO and

WEP penalize those who had short or intermittent careers, or who blended private jobs with stints in public service.

Often, these are people already losing out in their overall earnings because they chose to make a meaningful contribution to society in roles that just don't pay well. Think of those in your community who teach your children, fight your fires and keep your streets safe. Chances are, you're thinking of people who are suffering the impact of the GPO or WEP.

Because most paid Social Security taxes somewhere along the way, these people planned for retirement fully anticipating both pension and Social Security benefits. But when these teachers, police officers, and firefighters retired, they discovered all or much of their expected Social Security benefits wiped out by the WEP or GPO. In the case of the WEP, the Social Security benefit is reduced by up to 60 percent. If the GPO is triggered, it reduces a retiree's spousal benefit by two-thirds. A Barnstable teacher wrote to me about her circumstances:

I am a recently divorced woman, age 56, who has worked in the school district for five years. Before taking this job I was an at-home mother. Although I get very minimal alimony (which I don't always receive) I face the grim reality of what I will live on when—and if—I can retire. Having paid the Social Security system for many years before having children, the GPO and WEP would not permit me to collect on what I paid into the system. I also understand that if my ex-husband were to die, the amount I would be able to collect from his Social Security would also be cut.

Countless heart-wrenching personal stories dramatically illustrate the impact of these unfair benefit reductions. In my home state of Massachusetts, over 18,000 retirees are being penalized by the WEP. When it comes to the GPO, almost 15,000 are affected—and over a third are widows or widowers.

Consider this letter I received from a widow in Hull, MA:

I am being punished because I worked for the Town for the past 23 years. My husband passed away after only receiving Social Security disability for six months. He worked 40 years toward his Social Security. Many people do not know about this penalty and find out when they go to collect their Social Security that they cannot receive what they totally deserve . . .

From a Marshfield, MA teacher:

If my husband should pre-decease me, I am not eligible for his Social Security and would suffer a serious financial burden. I stayed at home to raise four children, while my husband worked six days a week and long hours and contributed the maximum to Social Security. I reentered the workforce late in life (to help pay for college tuitions) and made the mistake of getting employment with our local municipality.

From a 10-year employee of the town of Duxbury, MA:

As I have been a part-time employee, my pension will be quite small, about \$300 a month. I worked many years under Social Security with full and part-time jobs. As my Social Security would be reduced from \$600 to \$400 it does not leave much to live on, never mind paying for medical insurance.

From a Sagamore Beach widow:

I recently had two more friends die after waiting since 1983 to receive help on the Government Pension Offset issue. If Congress waits much longer, they won't have many of us left to help.

It is particularly heartbreaking that retired women comprise over 70 percent of those penalized by the GPO reduction of spousal benefits. Many sacrificed to stay home and raise children in the 1940s, 1950s and 1960s—then went to work later in life. In retirement, they are hit especially hard. Not only did they face the challenges of a workplace that paid them far less than their male counterparts; now they face similarly diminished opportunities to enjoy their senior years. Many are widows with meager pensions, who now face drastically reduced financial support with the death of a spouse—and must also contend with reduced spousal Social Security benefits.

During this 108th Congress, we had strong support for bills that would have modified or repealed the WEP and GPO. We had significant bipartisan endorsement and literally hundreds of senior organizations calling for action.

In May of last year, we heard compelling testimony about the impact of these provisions in the House Ways and Means Social Security Subcommittee hearing. Chuck Canterbury, National President of the Fraternal Order of Police described why police officers in particular are penalized by the WEP:

Owing to the physical demands of the job, a law enforcement officer is likely to retire between the ages of 45 and 60. After 20 or 25 years on the job, many law enforcement officers are likely to begin second careers and hold jobs that do pay into the Social Security system. Even more officers are likely to "moonlight," that is, hold second or even third jobs throughout their law enforcement career in order to augment their income. This creates an unjust situation that too many of our members find themselves in: they are entitled to a State or local retirement benefit because they worked 20 or more years keeping their streets and neighborhoods safe, and also working at a job or jobs in which they paid into Social Security, entitling them to that benefit as well. However, because of the WEP, if their second career resulted in less than twenty (20) years of substantial earnings, upon reaching the age they are eligible to collect Social Security, they will discover that they lose sixty percent (60%) of the benefit for which they were taxed! Actuarially speaking, I doubt many officers will live long enough to "break even"—that is collect the money they paid into the system, let alone receive any "wind-fall."

Even if the personal circumstances of today's public sector retirees fail to move you, consider the fact that it gets harder every day to recruit and retain people for public service jobs. Compared with the private sector, public services jobs offer significantly less pay and benefits. Personal satisfaction, while a powerful motivator, begins to fade when you realize you won't be able to put food on the table during retirement. We'll never attract the best possible candidates to public service unless we remove the stark disincentives characterized by the WEP and GPO.

Today this Congress failed to address the needs of almost one million former government employees who have already lost retirement dollars due to the GPO and WEP. Millions more face losses in the future. These are people we need, in every community, doing jobs that often keep us safe and secure in an era of unparalleled uncertainty.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate having expired, pursuant to

House Resolution 520, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida (Mr. SHAW).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. GREEN of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Without objection, further proceedings on this motion will be postponed.

There was no objection.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the Senate amendment to H.R. 743.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3783) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The Clerk read as follows:

H.R. 3783

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Extension Act of 2004".

SEC. 2. ADVANCES.

(a) IN GENERAL.—Section 2(a) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 104 note; 117 Stat. 1110) is amended by inserting "and the Surface Transportation Extension Act of 2004" after "as amended by this Act".

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) ADMINISTRATION OF FUNDS.—Section 2(b)(3) of such Act (117 Stat. 1110) is amended by striking "the amendment made under subsection (d)" and inserting "section 1101(c) of the Transportation Equity Act for the 21st Century".

(2) SPECIAL RULES FOR MINIMUM GUARANTEE.—Section 2(b)(4) of such Act is amend-

ed by striking "\$1,166,666,667" and inserting \$2,100,000,000.

(3) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by striking "February 29" inserting "June 30".

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(c)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1111) is amended by striking "\$13,483,458,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$24,270,225,000 for the period of October 1, 2003, through June 30, 2004".

(d) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2003 (117 Stat. 1111) is amended to read as follows:

"(e) LIMITATION ON OBLIGATIONS.—

"(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—Subject to paragraph (2), for the period of October 1, 2003, through June 30, 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108-199) in accordance with section 110 of such Act: except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), 110(a)(5), and 110(g) of such Act shall equal the greater of—

"(A) the funding authorized for such program, project, or activity in this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act); or

"(B) 1/2 of the funding provided for or limitation set on such program, project, or activity in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

"(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2003, through June 30, 2004, shall not exceed \$25,232,250,000; except that this limitation shall not apply to \$479,000,000 in obligations for minimum guarantee for such period.

"(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—A State shall not obligate after June 30, 2004, any funds for any Federal-aid highway program project made available by this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act), until the date of enactment of a law reauthorizing the Federal-aid highway program.

"(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2004 for the purposes of the matter under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004."

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

Section 3 of the Surface Transportation Extension Act of 2003 (117 Stat. 1112-1113) is amended by adding at the end the following:

"(e) PROHIBITION OF TRANSFERS.—Notwithstanding any other provision of this section, no funds may be transferred after February 29, 2004, by a State under subsection (a)—

"(1) from amounts apportioned to the State for the congestion mitigation and air quality improvement program; and

"(2) from amounts apportioned to the State for the surface transportation program and that are subject to any of paragraphs (1), (2), and (3)(A)(i) of section 133(d) of title 23, United States Code."

SEC. 4. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2003 (117 Stat. 1113) is amended by striking "\$187,500,000" and inserting "\$337,500,000".

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 117 Stat. 1113) is amended—

(i) in the first sentence by striking "\$114,583,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$206,250,000 for the period of October 1, 2003, through June 30, 2004"; and

(ii) in the second sentence by striking "\$5,416,667" and inserting "\$9,750,000".

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking "\$102,500,000 for the period of October 1, 2003, through February 29, 2004" and inserting "\$184,500,000 for the period of October 1, 2003, through June 30, 2004".

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking "\$68,750,000 for the period of October 1, 2003, through February 29, 2004" and inserting "\$123,750,000 for the period of October 1, 2003, through June 30, 2004".

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking "\$8,333,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$15,000,000 for the period of October 1, 2003, through June 30, 2004".

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 117 Stat. 1114) is amended by striking "\$58,333,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$105,000,000 for the period of October 1, 2003, through June 30, 2004".

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "\$15,833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$28,500,000 for the period of October 1, 2003, through June 30, 2004".

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2003 (117 Stat. 1114) is amended—

(i) in clause (i) by striking "\$4,166,667" and inserting "\$7,500,000";

(ii) in clause (ii) by striking "\$2,083,333" and inserting "\$3,750,000"; and

(iii) in clause (iii) by striking "\$2,083,333" and inserting "\$3,750,000".

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 117 Stat. 1114) is amended by striking "\$11,458,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$20,625,000 for the period of October 1, 2003, through June 30, 2004".

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "\$4,583,333 for the period of October 1, 2003, through February 29, 2004" and inserting "\$8,250,000 for the period of October 1, 2003, through June 30, 2004".

gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the chairman, the gentleman from California (Mr. POMBO), for his great work in putting together this bill, particularly for a guy who represents the district where the Barona tribe have had major problems with water. They have had substantial water problems for the last several years. The tribe and the residents of the Old Barona Road have been working together to try to bring this pipeline up from the San Vincente reservoir, up over the saddle that separates the Barona Valley from the reservoir, and provide water in that area. It is expected that the rural residents of the Old Barona Road and the tribe will work together to make sure that there is a connection there off that main pipeline so that everyone can partake of this secure water supply that is not dependent on the well water level in that particular valley.

I thank the chairman, and ask him if that is his intent with this legislation.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, I thank the gentleman for his statement and his continued involvement as this legislation has moved forward.

Obviously, the growth that we have experienced in California, coupled with the recent wildfires, have pointed out to a greater extent the need for this pipeline to be put in.

I agree that it is important that the Barona Band of Mission Indians continue to work with the local communities to address everyone's concerns. I did have an opportunity to tour the site of the proposed pipeline that was going to go in, as well as the neighbors and the issues that they have, and I will continue to work with Barona and make sure that everyone's concerns are addressed.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. This is great legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would just like to congratulate Senator Ben Nighthorse Campbell on this legislation and all of the staff members that worked on it, and especially Marie Howard.

Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 523.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

□ 1600

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, proceedings will resume on the motion to concur and on the motion to suspend the rules previously postponed.

Votes will be taken in the following order:

Motion to concur in Senate amendment to H.R. 743, by the yeas and nays; and

H.R. 3783, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

SOCIAL SECURITY PROTECTION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question on the motion to concur in the Senate amendment to the bill, H.R. 743, offered by the gentleman from Florida (Mr. SHAW) on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion to concur in the Senate amendment.

The vote was taken by electronic device, and there were—yeas 402, nays 19, not voting 11, as follows:

[Roll No. 23]

YEAS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bercuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (CA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine

Brown-Waite,
Ginny
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (CA)
DeFazio
Delahunt

DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Folcy
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frellich
Galegy
Garrett (NJ)
Gephardt
Cerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Graves

Green (WI)
Greenwood
Grijalva
Cutierrez
Cutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchev
Hobson
Hoefel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inlee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klaczka
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowe
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui

NAYS—19

Hall
Hinojosa
Jackson-Lee
(TX)
Johnson, E. B.
Lampson
Neugebauer

Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Quinn
Waters
Watt
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush

Ortiz
Owens
Reyes
Rodriguez
Sandlin
Stenholm

NOT VOTING—11

DeCette
Diaz-Balart, M.
Doggett
Cranger

Honda
Kucinich
Murtha
Rahall

Solis
Turner (TX)
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1623

Messrs. HINOJOSA, SANDLIN, and BELL changed their vote from "yea" to "nay."

Mr. INSLEE changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 23 on H.R. 743, the Social Security Protection Act, I was unavoidably detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the next vote will be conducted as a 5-minute vote.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3783.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3783, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

[Roll No. 24]

YEAS—421

Abercrombie	Billrakis	Burr
Ackerman	Bishop (CA)	Burton (IN)
Aderholt	Bishop (NY)	Buyer
Akin	Bishop (UT)	Calvert
Alexander	Blackburn	Camp
Allon	Blumenauer	Cannon
Andrews	Blunt	Cantor
Baca	Boehler	Capito
Bachus	Boehner	Capps
Baird	Bonilla	Capuano
Baker	Bonner	Cardin
Baldwin	Bono	Cardoza
Ballance	Boozman	Carson (IN)
Ballenger	Boswell	Carson (OK)
Barrett (SC)	Boucher	Carter
Bartlett (MD)	Boyd	Case
Barton (TX)	Bradley (NH)	Castle
Bass	Brady (PA)	Chabot
Beauprez	Brady (TX)	Chocola
Beccerra	Brown (OH)	Clay
Bell	Brown (SC)	Clyburn
Bereuter	Brown, Corrine	Coble
Berkley	Brown-Waite,	Cole
Berman	Ginny	Collins
Berry	Burgess	Conyers
Biggart	Burns	Cooper

Costello	Houghton	Nadler
Cox	Hoyer	Napolitano
Cramer	Hulshof	Neal (MA)
Crane	Hunter	Nethercutt
Crenshaw	Hyde	Neugebauer
Crowley	Inslee	Ney
Cubin	Isakson	Northup
Culberson	Israel	Norwood
Cummings	Issa	Nunes
Cunningham	Istook	Nussle
Davis (AL)	Jackson (IL)	Oberstar
Davis (CA)	Jackson-Lee	Obey
Davis (FL)	(TX)	Olver
Davis (IL)	Jefferson	Ortiz
Davis (TN)	Jenkins	Osborne
Davis, Jo Ann	John	Osc
Davis, Tom	Johnson (CT)	Otter
Deal (GA)	Johnson (IL)	Owens
DeFazio	Johnson, E. B.	Oxley
DeLahunt	Johnson, Sam	Pallone
DeLauro	Jones (NC)	Pascarell
DeLay	Jones (OH)	Pastor
DeMint	Kanjorski	Paul
Deutsch	Kaptur	Payne
Diaz-Balart, L.	Keller	Pearce
Dicks	Kelly	Pelosi
Dingell	Kennedy (MN)	Pence
Dooley (CA)	Kennedy (RI)	Peterson (MN)
Doollittle	Kildee	Peterson (PA)
Doyle	Kilpatrick	Petri
Dreier	Kind	Pickering
Duncan	King (IA)	Pitts
Dunn	King (NY)	Platts
Edwards	Kingston	Pombo
Ehlers	Kirk	Pomeroy
Emanuel	Kleczka	Porter
Emerson	Kline	Portman
Engel	Knollenberg	Price (NC)
English	Kolbe	Pryce (OH)
Eshoo	LaHood	Putnam
Etheridge	Lampson	Quinn
Evans	Langevin	Radanovich
Everett	Lantos	Ramstad
Farr	Larsen (WA)	Rangel
Fattah	Larson (CT)	Regula
Feeney	Latham	Rchberg
Ferguson	LaTourette	Reyes
Filner	Leach	Reynolds
Flake	Lee	Rodriguez
Foley	Levin	Rogers (AL)
Forbes	Lewis (CA)	Rogers (KY)
Ford	Lewis (CA)	Rogers (MI)
Fossella	Lewis (KY)	Rohrabacher
Frank (MA)	Lipinski	Ros-Lehtinen
Franks (AZ)	LoBlondo	Ross
Frelinghuysen	Lofgren	Rothman
Frost	Lucas (KY)	Roybal-Allard
Gallely	Lucas (OK)	Royce
Garrett (NJ)	Lynch	Ruppersberger
Gephardt	Majette	Rush
Gephart	Maloney	Ryan (OH)
Gerlach	Manzullo	Ryan (WI)
Gibbons	Markey	Ryan (KS)
Gilchrest	Marshall	Sabo
Gillmor	Matheson	Sanchez, Linda
Gingrey	Matsui	T.
Gonzalez	McCarthy (MO)	Sanchez, Loretta
Goode	McCarthy (NY)	Sanders
Goodlatte	McCollum	Sandin
Gordon	McCotter	Saxton
Goss	McCreery	Schakowsky
Cranger	McDermott	Schiff
Graves	McGovern	Schrock
Green (TX)	McHugh	Scott (CA)
Green (WI)	McInnis	Scott (VA)
Greenwood	McIntyre	Sensenbrenner
Grijalva	McKeon	Serrano
Gutierrez	McNulty	Sessions
Gutknecht	Mechan	Shadegg
Hall	Meek (FL)	Shaw
Harman	Meeks (NY)	Shays
Harris	Menendez	Sherman
Hart	Mica	Sherwood
Hastings (FL)	Michaud	Shimkus
Hastings (WA)	Millender-	Shuster
Hayes	McDonald	Simmons
Hayworth	Miller (FL)	Simpson
Hefley	Miller (MI)	Skelton
Hensarling	Miller (NC)	Slaughter
Herger	Miller, Gary	Smith (MI)
Hill	Miller, George	Smith (NJ)
Hinchey	Mollohan	Smith (TX)
Hinchoy	Moore	Smith (WA)
Hobson	Moran (KS)	Snyder
Hoeffel	Moran (VA)	Souder
Hoekstra	Murphy	Spratt
Holden	Musgrave	Stark
Holt	Myrick	Stearns
Hooley (OR)		Stenholm
Hostettler		

Tierney	Waxman
Toomey	Weiner
Towns	Weldon (FL)
Turner (OH)	Weldon (PA)
Turner (TX)	Weller
Udall (CO)	Wextler
Udall (NM)	Whitfield
Upton	Wicker
Van Hollen	Wilson (NM)
Velázquez	Wilson (SC)
Visclosky	Wolf
Vitter	Woolsey
Walden (OR)	Wu
Walsh	Wynn
Wamp	Young (AK)
Waters	Young (FL)
Watt	

NOT VOTING—11

DeCette	Kucinich	Renzi
Diaz-Balart, M.	Linder	Solis
Doggett	Murtha	Watson
Honda	Rahall	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1632

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 24 on H.R. 3783, I was unavoidably detained. Had I been present, I would have voted "yea."

□ 1633

COMMENDING LOUISIANA STATE UNIVERSITY TIGERS FOR WINNING 2003 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME AND COMMENDING SOUTHERN UNIVERSITY JAGUARS FOOTBALL TEAM FOR WINNING 2003 SBN BLACK COLLEGE NATIONAL FOOTBALL CHAMPIONSHIP

Mr. BAKER. Mr. Speaker, I ask unanimous consent that it be in order at any time for the majority leader or his designee to call up House Resolution 496; the resolution be considered as read; and the previous question be considered as ordered on the resolution to final adoption without intervening motion except (1) one hour of debate and (2) one motion to recommit.

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

There was no objection.

Mr. BAKER. Mr. Speaker, pursuant to the previous order of the House, and as the designee of the majority leader, I call up the resolution (H. Res. 496) commending the Louisiana State University Tigers football team for winning the 2003 Bowl Championship Series national championship game, and commending the Southern University Jaguars football team for winning the 2003 SBN Black College National Football championship, and ask for its immediate consideration.

Public Law 108-203
108th Congress

An Act

To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

Mar. 2, 2004
[H.R. 743]

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Social Security Protection Act of 2004”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.
- Sec. 102. Oversight of representative payees.
- Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
- Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
- Sec. 105. Liability of representative payees for misused benefits.
- Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.
- Sec. 107. Survey of use of payments by representative payees.

Subtitle B—Enforcement

- Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to withholding of material facts.
- Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
- Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
- Sec. 204. Requirements relating to offers to provide for a fee, a product or service available without charge from the Social Security Administration.
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.
- Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
- Sec. 209. Authority for judicial orders of restitution.

Social Security
Protection Act of
2004.

42 USC 1305
note.

- Sec. 210. Authority for cross-program recovery of benefit overpayments.
- Sec. 211. Prohibition on payment of title II benefits to persons not authorized to work in the United States.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM
IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Temporary extension of attorney fee payment system to title XVI claims.
- Sec. 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.
- Sec. 304. GAO study regarding the fee payment process for claimant representatives.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives
Improvement Act of 1999

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 403. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.
- Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.
- Sec. 407. Reauthorization of appropriations for certain work incentives programs.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Clarification of definitions regarding certain survivor benefits.
- Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
- Sec. 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana.
- Sec. 417. Compensation for the Social Security Advisory Board.
- Sec. 418. Sixty-month period of employment requirement for application of government pension offset exemption.
- Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.
- Sec. 420. Post-1956 Military Wage Credits.
- Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.

Subtitle C—Technical Amendments

- Sec. 421. Technical correction relating to responsible agency head.
- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.
- Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.

Subtitle D—Amendments Related to Title XVI

- Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.
- Sec. 431. Uniform 9-month resource exclusion periods.
- Sec. 432. Elimination of certain restrictions on the application of the student earned income exclusion.
- Sec. 433. Exception to retrospective monthly accounting for nonrecurring income.
- Sec. 434. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

Sec. 435. Treatment of education-related income and resources.
 Sec. 436. Monthly treatment of uniformed service compensation.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: “In any case in which a representative payee that—

“(A) is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of paragraph (4)(B)); or

“(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).”

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

“(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this paragraph.”

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the first sentence the following: “In any case in which a representative payee that—

“(A) is not an individual; or

“(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2).”

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

“(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.”.

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking “for his or her benefit” and inserting “for his or her use and benefit”.

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: “In any case in which a representative payee that—

“(i) is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of subparagraph (D)(ii)); or

“(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).”.

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking “and” at the end;

(B) in paragraph (13), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (13) the following:

“(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual’s (or spouse’s) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.”.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

“(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation

the meaning of the term ‘use and benefit’ for purposes of this clause.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

Applicability.
42 USC 405 note.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) **CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.**—

(1) **TITLE II AMENDMENTS.**—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in paragraph (9))”;

(B) in paragraph (3)(F), by striking “community-based nonprofit social service agencies” and inserting “certified community-based nonprofit social service agencies (as defined in paragraph (9))”;

(C) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (9))”;

and
(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

“(9) For purposes of this subsection, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.”

Regulations.

Records.

(2) **TITLE XVI AMENDMENTS.**—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in subparagraph (I))”;

(B) in subparagraph (D)(ii)—

(i) by striking “or any community-based” and all that follows through “in accordance” in subclause (II) and inserting “or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance”;

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking “subclause (II)(bb)” and inserting “subclause (II)”; and

(C) by adding at the end the following:

Regulations.

“(I) For purposes of this paragraph, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.”

Records.

42 USC 405.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

“(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

“(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

“(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

Deadline.
Reports.

“(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(i) the number of such reviews;

“(ii) the results of such reviews;

“(iii) the number of cases in which the representative payee was changed and why;

“(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the

Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(v) the number of cases discovered in which there was a misuse of funds;

“(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

“(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(viii) such other information as the Commissioner deems appropriate.”.

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

“(k) PERIODIC ONSITE REVIEW.—

“(1) IN GENERAL.—In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

“(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

or

“(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

“(2) REPORT.—Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(A) the number of such reviews;

“(B) the results of such reviews;

“(C) the number of cases in which the representative payee was changed and why;

“(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(E) the number of cases discovered in which there was a misuse of funds;

“(F) how any such cases of misuse of funds were dealt with by the Commissioner;

“(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(H) such other information as the Commissioner deems appropriate.”.

Deadline.

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

“(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

“(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

“(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

“(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

“(I) the number of the reviews;

“(II) the results of such reviews;

“(III) the number of cases in which the representative payee was changed and why;

“(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(V) the number of cases discovered in which there was a misuse of funds;

“(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

“(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(VIII) such other information as the Commissioner deems appropriate.”.

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI);

and

(C) by inserting after subclause (III) the following:

Deadline.
Reports.

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

“(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and”;

(2) in subparagraph (B), by adding at the end the following:

“(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 202(x)(1)(A)(iv),

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”;

(3) in subparagraph (C)(i)(II)—

(A) by striking “subparagraph (B)(i)(IV),” and inserting “subparagraph (B)(i)(VI)”;

(B) by striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(VI)”;

(4) in subparagraph (C)(i)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

“(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

“(V) such person is a person described in section 202(x)(1)(A)(iv).”

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

“(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(E) obtain information concerning whether such person is a person described in section 804(a)(2); and”;

(2) in subsection (b), by adding at the end the following:

“(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner

Identifying
information.

Identifying
information.

shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(A) such person is described in section 804(a)(2),

“(B) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(C) the location or apprehension of such person is within the officer’s official duties.”; and

(3) in subsection (d)(1)—

(A) by striking “or” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph

(C) and inserting a semicolon; and

(C) by adding at the end the following:

“(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

“(E) such person is a person described in section 804(a)(2).”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI);

and

(C) by inserting after subclause (III) the following:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and”;

(2) in clause (iii)(II)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI)”; and

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI)”;

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

“(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is a person described in section 1611(e)(4)(A).”; and

(4) by adding at the end the following:

“(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of

1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

“(I) such person is described in section 1611(e)(4)(A),

“(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

“(III) the location or apprehension of such person is within the officer’s official duties.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

42 USC 405 note.

(e) **REPORT TO CONGRESS.**—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

Deadline.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) **TITLE II AMENDMENTS.**—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Secretary” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner”.

(b) **TITLE XVI AMENDMENTS.**—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall

Applicability.
42 USC 405 note.

be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner".
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10)”;

(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10)”;

(4) by inserting after paragraph (6) the following:

“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

Certification.

“(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

“(1) LIABILITY FOR MISUSED AMOUNTS.—

“(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified

individual or such qualified individual's alternative representative payee.

“(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”; and

(2) by striking subparagraph (H) and inserting the following:

“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

“(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

Applicability.
42 USC 405 note.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.”.

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

“(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”.

42 USC 405 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

“(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to \$8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

Deadline.
Reports.

“(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) **IN GENERAL.**—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following:

“(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

Applicability.
42 USC 1320a-8
note.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) **TREATMENT OF WITHHOLDING OF MATERIAL FACTS.**—

(1) **CIVIL PENALTIES.**—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(A) by striking “who” in the first sentence and inserting “who—”;

(B) by striking “makes” in the first sentence and all that follows through “shall be subject to,” and inserting the following:

“(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

“(B) makes such a statement or representation for such use with knowing disregard for the truth, or

“(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,
shall be subject to.”;

(C) by inserting “or each receipt of such benefits or payments while withholding disclosure of such fact” after “each such statement or representation” in the first sentence;

(D) by inserting “or because of such withholding of disclosure of a material fact” after “because of such statement or representation” in the second sentence; and

(E) by inserting “or such a withholding of disclosure” after “such a statement or representation” in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a-8a(a)) is amended—

(A) by striking “who” the first place it appears and inserting “who—”; and

(B) by striking “makes” and all that follows through “shall be subject to,” and inserting the following:

“(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,
“(2) makes such a statement or representation for such use with knowing disregard for the truth, or

“(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to,”.

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking “In the case of amounts recovered arising out of a determination relating to title VIII or XVI,” and inserting “In the case of any other amounts recovered under this section.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking “charging fraud or false statements”.

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking “and representations” and inserting “, representations, or actions”.

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking “statement or representation referred to in subsection (a) was made” and inserting “violation occurred”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective date.
Records.
42 USC 902 note.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

(1) in the heading, by striking “Prisoners” and all that follows and inserting the following: “Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees”;

(2) in paragraph (1)(A)(ii)(IV), by striking “or” at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

“(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

“(v) is violating a condition of probation or parole imposed under Federal or State law.”;

(5) by adding at the end of paragraph (1)(B) the following:

“(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

“(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

“(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

“(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

“(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

“(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.”; and

(6) in paragraph (3), by adding at the end the following:

“(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

“(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

“(ii) the location or apprehension of the beneficiary is within the officer’s official duties.”.

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting “(A)” after “(4)”;

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking “or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State” and inserting “or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed”; and

(D) by adding at the end the following:

“(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

“(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

“(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

“(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

“(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

“(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.”; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

“(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

“(B) the location or apprehension of the recipient is within the officer’s official duties.”.

(c) **CONFORMING AMENDMENT.**—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking “or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State” and inserting “or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

42 USC 402 note.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE, A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.**—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following:

“(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

“(i) explains that the product or service is available free of charge from the Social Security Administration, and

“(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

“(B) Subparagraph (A) shall not apply to any offer—

“(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

“(ii) to prepare, or assist in the preparation of, an individual’s plan for achieving self-support under title XVI.”; and

(2) in the heading, by striking “PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE” and inserting “PROHIBITIONS RELATING TO REFERENCES”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

Applicability.
42 USC
1320b-10 note.

Regulations.
Deadline.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: “Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.”.

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL
SECURITY ACT

“SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term ‘threats of force’ means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.”.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) **IN GENERAL.**—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” by striking “or ‘Medicaid,’” and inserting “‘Medicaid’,”

‘Death Benefits Update’, ‘Federal Benefit Information’, ‘Funeral Expenses’, or ‘Final Supplemental Plan’,” and by inserting “‘CMS’,” after “‘HCFA’”;

(2) in subparagraph (B), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” each place it appears; and

(3) in the matter following subparagraph (B), by striking “the Health Care Financing Administration,” each place it appears and inserting “the Centers for Medicare & Medicaid Services,”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act. Applicability.
42 USC
1320b-10 note.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) **IN GENERAL.**—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:
“(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

“(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

“(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

“(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,
no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act. Applicability.
42 USC 422 note.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) **AMENDMENTS TO TITLE II.**—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

Applicability.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

“(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

“(A) Any individual who suffers a financial loss as a result of the defendant’s violation of subsection (a).

“(B) The Commissioner of Social Security, to the extent that the defendant’s violation of subsection (a) results in—

“(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

“(ii) an individual suffering a financial loss due to the defendant’s violation of subsection (a) in his or her capacity as the individual’s representative payee appointed pursuant to section 205(j).

“(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

“(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual.”; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) COURT ORDER FOR RESTITUTION.—

“(1) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

“(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

“(B) an individual suffering a financial loss due to the defendant’s violation of subsection (a) in his or her capacity as the individual’s representative payee appointed pursuant to section 807(i).

Applicability.

“(2) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

“(3) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial

restitution, under this subsection, the court shall state on the record the reasons therefor.

“(4) RECEIPT OF RESTITUTION PAYMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

“(B) PAYMENT TO THE INDIVIDUAL.—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual.”

Certification.

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

- (1) by redesignating subsection (b) as subsection (c); and
- (2) by inserting after subsection (a) the following:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

“(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

“(B) an individual suffering a financial loss due to the defendant’s violation of subsection (a) in his or her capacity as the individual’s representative payee appointed pursuant to section 1631(a)(2).

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

Applicability.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

“(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

“(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual.”; and

Certification.

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking “(1) If a person” and all that follows through “(2)”.

Applicability.
42 USC 408 note.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) **IN GENERAL.**—Section 1147 of the Social Security Act (42 U.S.C. 1320b-17) is amended to read as follows:

“CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

“(a) **IN GENERAL.**—Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

“(b) **LIMITATION APPLICABLE TO CURRENT BENEFITS.**—

“(1) **IN GENERAL.**—In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

“(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

“(B) in the case of benefits under title XVI, by an amount greater than the lesser of—

“(i) the amount of the benefit payable to the person for that month; or

“(ii) an amount equal to 10 percent of the person’s income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

“(2) **EXCEPTION.**—Paragraph (1) shall not apply if—

“(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

“(B) the person so requests.

“(c) **NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.**—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person’s income, shall, as a result of such action—

“(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

“(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

“(d) **INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.**—Section 207 shall not apply to actions taken under

the provisions of this section to decrease amounts payable under titles II and XVI.

“(e) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

“(1) The old-age, survivors, and disability insurance benefits program under title II.

“(2) The special benefits for certain World War II veterans program under title VIII.

“(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

“(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.”.

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking “any payment” and all that follows through “under this title” and inserting “any payment under this title”; and

(iii) by striking “; or” and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

“(e) CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.—For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.”.

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b-18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking “excluding any other” and inserting “excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding”; and

(ii) by striking “50 percent of”; and

(B) by striking paragraph (6) and inserting the following:

“(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.”.

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

42 USC 404 note.

SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.—Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;

(2) in subsection (b), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;

(3) by adding at the end the following:

“(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

“(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

“(2) at the time any such quarters of coverage are earned—

“(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

“(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

“(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual’s admission to the United States.”

(b) DISABILITY BENEFITS.—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

“(C) if not a United States citizen or national—

“(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

“(ii) at the time any quarters of coverage are earned—

“(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

“(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

“(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual’s admission to the United States.”

(c) EFFECTIVE DATE.—The amendments made by this section apply to benefit applications based on social security account numbers issued on or after January 1, 2004.

Applicability.
42 USC 414 note.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) **IN GENERAL.**—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting “, except that the maximum amount of the assessment may not exceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”; and

(2) by adding at the end the following: “In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

Applicability.
42 USC 406 note.

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) **IN GENERAL.**—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause

(i)—

(A) by striking “section 206(a)” and inserting “section 206”;

(B) by striking “(other than paragraph (4) thereof)” and inserting “(other than subsections (a)(4) and (d) thereof)”; and

(C) by striking “paragraph (2) thereof” and inserting “such section”;

(2) in subparagraph (A)(i)—

(A) by striking “in subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)”; and

(B) by striking “and” at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

“(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase ‘paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law’ for the phrase ‘subsection (g) or (h) of section 223’;

“(iii) by substituting, in subsection (a)(2)(C)(i), the phrase ‘under title II’ for the phrase ‘under title XVI’;

“(iv) by substituting, in subsection (b)(1)(A), the phrase ‘pay the amount of such fee’ for the phrase ‘certify the amount of such fee for payment’ and by striking, in subsection (b)(1)(A), the phrase ‘or certified for payment’; and

“(v) by substituting, in subsection (b)(1)(B)(ii), the phrase ‘deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)’ for the phrase ‘determined before any applicable reduction under section 1127(a)’.”; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

“(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

“(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

“(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

“(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant’s past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

“(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

“(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant’s past-due benefits.

“(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

“(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

“(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”

(b) **CONFORMING AMENDMENTS.**—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting “and payment of attorney fees under subsection (d)(2)(B)” after “subsection (g)”; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting “and payment of attorney fees under subsection (d)(2)(B)” after “subsection (g)”; and

(B) in the matter following clause (ii), by inserting “and payment of attorney fees under subsection (d)(2)(B)” after “State”.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) **SUNSET.**—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

42 USC 1383
note.
Applicability.
Notice.

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

42 USC 406 note.

(a) **IN GENERAL.**—The Commissioner of Social Security (hereafter in this section referred to as the “Commissioner”) shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) **STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.**—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) **ASSESSMENT OF FEES.**—

(1) **IN GENERAL.**—The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) **DISPOSITION OF FEES.**—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

Deadline.

(d) **NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.**—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement

for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) **REPORTS BY THE COMMISSIONER; TERMINATION.**—

Deadlines.

(1) **INTERIM REPORTS.**—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) **TERMINATION DATE AND FINAL REPORT.**—The termination date of the demonstration project under this section is the date which is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

42 USC 406 note.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) **MATTERS TO BE STUDIED.**—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

Deadline.

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Im- provement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2005”; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005.”.

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNEC- TION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.)” and inserting “(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act,”.

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.”.

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.**—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

Applicability.
42 USC
1320b-20 note.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) **STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.**—

(1) **DEFINITION OF DISABLED BENEFICIARY.**—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) **DISABLED BENEFICIARY.**—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) **ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.**—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

Applicability.
42 USC
1320b-21 note.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) **IN GENERAL.**—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921). 42 USC 1320b-19 note.

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM. 42 USC 1320b-19 note.

(a) **GAO REPORT.**—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19) that— Deadline.

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) **BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.**—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b-20(d)) is amended by striking “2004” and inserting “2009”.

(b) **PROTECTION AND ADVOCACY.**—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b-21(h)) is amended by striking “2004” and inserting “2009”.

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) **IN GENERAL.**—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act. Applicability. 42 USC 405 note.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

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

(1) in paragraph (1), by striking “section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(2) in paragraph (2), by striking “section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)” and inserting “section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act”;

(3) in paragraph (3), by striking “paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)” and inserting “paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)”; and

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking “241(a)” and inserting “237(a)”.

(b) TECHNICAL CORRECTIONS.—

(1) TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking “deportation” each place it appears and inserting “removal”;

(B) by striking “deported” each place it appears and inserting “removed”; and

(C) in the heading, by striking “Deportation” and inserting “Removal”.

(2) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting “or the Secretary of Homeland Security” after “the Attorney General” each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by—

(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.—The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.31 USC 1113
note.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”; and

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”.

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”; and

(5) by adding at the end the following:

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

“(E) the individual married the surviving husband within 60 days after the prior husband’s death.”

(c) **CONFORMING AMENDMENT.**—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking “clause (5) of subsection (c) or clause (5) of subsection (g)” and inserting “clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)”.

42 USC 416 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

26 USC 1401,
3101, and 3111.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking “to taxes or contributions for similar purposes under” and inserting “exclusively to the laws applicable to”.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) **IN GENERAL.**—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky, Louisiana,” after “Illinois,”.

42 USC 418 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) **IN GENERAL.**—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

“Compensation, Expenses, and Per Diem

“(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for

level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective as of January 1, 2003. 42 USC 903 note.

SEC. 418. SIXTY-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) **IN GENERAL.**—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

“(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual’s earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

“(i) such service did not constitute ‘employment’ as defined in section 210, or

“(ii) such service was being performed while in the service of the Federal Government, and constituted ‘employment’ as so defined solely by reason of—

“(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

“(II) an election to become subject to the Federal Employees’ Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.

“(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

“(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted ‘employment’ as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

“(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term ‘periodic benefit’ includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.”.

(b) CONFORMING AMENDMENTS.—

(1) WIFE’S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking “subsection (q) and paragraph (4) of this subsection” and inserting “subsections (k)(5) and (q)”; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND’S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking “subsection (q) and paragraph (2) of this subsection” and inserting “subsections (k)(5) and (q)”.

(3) WIDOW’S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking “subsection (q), paragraph (7) of this subsection,” and inserting “subsection (k)(5), subsection (q),”; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER’S INSURANCE BENEFITS.—

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

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking “subsection (q), paragraph (2) of this subsection,” and inserting “subsection (k)(5), subsection (q),”.

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking “paragraph (5)” and inserting “paragraph (4)”.

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking “paragraph (6)” and “paragraph (5)” (in clauses (i) and (ii)) and inserting “paragraph (5)” and “paragraph (4)”, respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking “paragraph (5)” and inserting “paragraph (4)”.

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking “or (f)(4)” each place it appears and inserting “or (f)(3)”.

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking “or (f)(3)” and inserting “or (f)(2)”.

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking “or (f)(4)” and inserting “or (f)(3)”.

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking “and 202(f)(5)” and inserting “and 202(f)(4)”.

(5) MOTHER’S AND FATHER’S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking “Except as provided in paragraph (4) of this subsection, such” and inserting “Such”; and

(B) by striking paragraph (4).

(c) EFFECTIVE DATE AND TRANSITIONAL RULE.—

42 USC 402 note.
Applicability.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted “employment” as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b-13(a)(3)) is amended—

(1) by striking “who” after “an individual” and inserting “who” before “has” in each of subparagraphs (A) and (B);

(2) by inserting “(i) who” after “(C)”; and

(3) by inserting before the period the following: “, or (ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment”.

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13(a)(2)) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual’s monthly retirement, survivor, and auxiliary benefits.”.

(c) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended further by adding at the end the following:

“Disclosure to Governmental Employees of Effect of Noncovered
Employment

“(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute ‘employment’ as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual’s employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

“(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality.”.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

“(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

“(1) \$624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

“(2) \$105,379,671 to the Federal Disability Insurance Trust Fund; and

“(3) \$173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.”

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.—Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking “(a)”; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107-117.—Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting “and before 2002” after “1977”.

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) IN GENERAL.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting “(i)” after “began”; and

(2) by adding after “such disability,” the following: “or (ii) after the close of the 84th month following the month in which his most recent entitlement to child’s insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

42 USC 402 note.

Subtitle C—Technical Amendments**SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.**

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and

(2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) **IN GENERAL.**—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires” before the semicolon.

Applicability.
42 USC 411 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) **AMENDMENT TO INTERNAL REVENUE CODE.**—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “described in subsection (g)(5)” and inserting “on a farm operated for profit”.

26 USC 3121.

(b) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking “described in section 210(f)(5)” and inserting “on a farm operated for profit”.

(c) **CONFORMING AMENDMENT.**—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking “or is domestic service in a private home of the employer”.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) **CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking “section 162(m)” and inserting “section 162(l)”.

26 USC 3102.

(b) **ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.**—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis”.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) **SOCIAL SECURITY ACT AMENDMENT.**—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;”.

26 USC 1402.

(b) **INTERNAL REVENUE CODE OF 1986 AMENDMENT.**—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking “all of the gross income” and all that follows and inserting “the gross income and deductions attributable to such

trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and”.

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) **QUORUM RULES.**—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking “entire Board of Trustees” and inserting “Trustees then holding office”.

(b) **POWERS OF THE BOARD OF TRUSTEES.**—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

“(4) **POWERS OF THE BOARD OF TRUSTEES.**—The Board of Trustees shall—

“(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

“(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

“(C) adopt bylaws and other rules to govern its operations;

“(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

“(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

“(F) pay administrative expenses of the Trust from the assets of the Trust; and

“(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.”.

(c) **STATE AND LOCAL TAXES.**—Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

“(6) **STATE AND LOCAL TAXES.**—The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.”.

(d) **FUNDING.**—Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) **TRANSFERS.**—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

(1) by inserting “or the Railroad Retirement Account” after “National Railroad Retirement Investment Trust” the second place it appears;

(2) by inserting “or the Railroad Retirement Board” after “National Railroad Retirement Investment Trust” the third place it appears;

(3) by inserting “(either directly or through a commingled account consisting only of such obligations)” after “United States” the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: “or to purchase such additional obligations”.

(f) **CLERICAL AMENDMENTS.**—Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking “trustee’s” each place it appears and inserting “Trustee’s”;

(2) in subparagraph (C), by striking “trustee” and “trustees” each place it appears and inserting “Trustee” and “Trustees”, respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking “trustee” and inserting “Trustee”.

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVI- DEND INCOME.

(a) **INFREQUENT OR IRREGULAR INCOME.**—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

“(3) in any calendar quarter, the first—
“(A) \$60 of unearned income, and
“(B) \$30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;”.

(b) **INTEREST OR DIVIDEND INCOME.**—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking “and” at the end;

(2) in paragraph (22), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(23) interest or dividend income from resources—

“(A) not excluded under section 1613(a), or

“(B) excluded pursuant to Federal law other than section 1613(a).”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) **UNDERPAYMENTS OF BENEFITS.**—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking “6” and inserting “9”; and

(2) by striking “(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)”.

(b) **ADVANCEABLE TAX CREDITS.**—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

“(11) for the 9-month period beginning after the month in which received—

“(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

“(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

Applicability.
42 USC 1382b
note.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) **IN GENERAL.**—Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking “a child who” and inserting “under the age of 22 and”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

42 USC 1382a
note.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NONRECURRING INCOME.

(a) **IN GENERAL.**—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

“(9)(A) Notwithstanding paragraphs (1) and (2), any non-recurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

“(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be non-recurring income.”.

(b) **DELETION OF OBSOLETE MATERIAL.**—Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

“(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.”

42 USC 1382
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) **IN GENERAL.**—Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting “and” after “citizen of the United States,”;

and

(2) by striking “, and who,” and all that follows and inserting a period.

42 USC 1382c
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) **EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.**—Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking “or fellowship received for use in paying” and inserting “fellowship, or gift (or portion of a gift) used to pay”.

(b) **EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.**—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking “and” at the end;

(2) in paragraph (14), by striking the period and inserting “; and”; and

(3) by inserting after paragraph (14) the following:

“(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.”

Applicability.
42 USC 1382a
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) **TREATMENT OF PAY AS RECEIVED WHEN EARNED.**—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

“(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

Applicability.
42 USC 1382
note.

Approved March 2, 2004.

LEGISLATIVE HISTORY—H.R. 743:

HOUSE REPORTS: No. 108-46 (Comm. on Ways and Means).

SENATE REPORTS: No. 108-176 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 149 (2003): Mar. 5, considered and rejected in House.

Apr. 2, considered and passed House.

Dec. 9, considered and passed Senate, amended.

Vol. 150 (2004): Feb. 11, House concurred in Senate amendment.



CRS Report for Congress

Received through the CRS Web

The Social Security Protection Act of 2003 (H.R. 743)

Dawn Nuschler
Analyst in Social Legislation
Domestic Social Policy Division

Summary

On March 13, 2003, the House Ways and Means Committee approved H.R. 743 (the *Social Security Protection Act of 2003*), as amended, by a vote of 35-2. One week earlier, the House of Representatives considered H.R. 743, as amended, under suspension of the rules. The measure failed by a vote of 249-180 (a two-thirds majority vote was required for passage). H.R. 743 closely resembles H.R. 4070 from the 107th Congress. H.R. 4070, which passed the House unanimously and the Senate with amendment under unanimous consent, did not receive final passage before the 107th Congress adjourned. H.R. 743 is a bipartisan measure that would impose stricter standards on individuals and organizations serving as representative payees for Social Security and Supplemental Security Income (SSI) recipients; make non-governmental representative payees liable for "misused" funds and subject them to civil monetary penalties; tighten restrictions on attorneys representing Social Security and SSI disability claimants; limit assessments on attorney fee payments; prohibit fugitive felons from receiving Social Security benefits; modify the "last day rule" under the Government Pension Offset; and make other changes designed to reduce fraud and abuse. Preliminary estimates by the Congressional Budget Office show that H.R. 743 (as introduced) would result in net savings of \$649 million over 10 years. This report will be updated as legislative activity occurs.

On February 12, 2003, Rep. E. Clay Shaw, Chairman of the House Ways and Means Subcommittee on Social Security, introduced H.R. 743, the *Social Security Protection Act of 2003*.¹ H.R. 743 closely resembles H.R. 4070 from the 107th Congress, which was passed by the House by a vote of 425-0 in June 2002. A substitute amendment to H.R. 4070 (S.Amdt. 4967) was passed by the Senate under unanimous consent in November 2002. The measure did not receive final action in the House before the 107th Congress

¹ H.R. 743 is a bipartisan measure co-sponsored by Rep. Matsui, the Ranking Democrat on the Social Security Subcommittee and 29 other Members. On Feb. 25, 2003, Sen. Jim Bunning introduced a companion measure in the Senate (S. 439).

adjourned.² On February 27, 2003, the House Ways and Means Subcommittee on Social Security held a hearing on the measure. On March 5, 2003, the House considered H.R. 743, as amended by the Chairman, under suspension of the rules (debate was limited to 40 minutes, floor amendments were not allowed and a two-thirds majority vote was required for passage).³ Following floor debate in which many Members expressed strong opposition to a provision that would modify the “*last day rule*” under the Government Pension Offset (described below), the measure failed by a vote of 249-180.⁴

On March 13, 2003, the House Ways and Means Committee held a markup on H.R. 743, as amended. Rep. Jefferson offered an amendment that would incorporate H.R. 887 into the bill. Under H.R. 887, sponsored by Rep. Jefferson and co-sponsored by 109 Members, individuals whose combined monthly income from a non-covered pension and a Social Security spousal benefit is \$2,000 or less would be exempt from the GPO. In addition, the Jefferson amendment would hold the Social Security trust funds harmless (i.e., the increased cost to the Social Security system as a result of the change would be paid from general revenues). At the markup, Rep. Jefferson stated that the proposal would cost an estimated \$19 billion over 10 years.⁵ The Jefferson amendment was defeated by a vote of 14-21. Rep. Stark offered an amendment that would reduce the GPO from two-thirds to one-third of the government pension.⁶ As under the Jefferson amendment, the increased cost to the Social Security system would be paid from general revenues. The Stark amendment was defeated by a vote of 15-22. H.R. 743, as amended, was approved by the Committee by a vote of 35-2. The major provisions of H.R. 743, as amended, are described below. Preliminary estimates by the Congressional Budget Office show that H.R. 743 (as introduced on February 12, 2003) would result in net savings of \$649 million over 10 years (fiscal years 2004-2013).

Major Provisions of H.R. 743, Amended, As Approved by the House Ways and Means Committee

Representative Payees. The Social Security Administration (SSA) may designate a “representative payee” to accept monthly benefit payments on behalf of Social Security and Supplemental Security Income (SSI) recipients who are considered physically or mentally incapable of managing their own funds, or on behalf of children under age 18. In December 2001, an estimated 10.5% of Social Security recipients and 34.1% of SSI recipients had representative payees. In most cases, a family member or

² For information on H.R. 4070, see CRS Report RS21225, *Social Security Program Protection Act of 2002 (H.R. 4070)*, by Dawn Nuschler.

³ The bill had not gone before the House Ways and Means Committee or the Subcommittee on Social Security for markup before consideration in the House on March 5, 2003.

⁴ The provision affecting the “last day rule” under the Government Pension Offset was not included in the version of H.R. 4070 that passed the House unanimously in the 107th Congress. It was included in the Senate-passed version of the bill.

⁵ The hold harmless provision is not included in H.R. 887. For more information, see CRS Report RS20148, *Social Security: The Government Pension Offset*, by Geoffrey Kollmann.

⁶ A reduction in the GPO to one-third of the government pension is included in Rep. Shaw’s Social Security reform bill (H.R. 75, the *Social Security Guarantee Plus Act of 2003*).

friend of the recipient serves as the representative payee. Other individuals and organizations that may serve as representative payees include members of community organizations; public agencies or non-profit institutions that have custody of the recipient; noncustodial federal institutions; and private, for-profit organizations licensed under state law that have custody of the recipient.⁷

SSA is required to reissue benefits misused by an individual or organizational representative payee if the Commissioner of Social Security (the Commissioner) finds that SSA negligently failed to investigate or monitor the payee. H.R. 743 would eliminate the requirement that reissuance be subject to a finding of negligence on the part of SSA. As a result, SSA would be required to reissue any payments misused by an organizational payee, or by an individual payee representing 15 or more recipients. Such payments would be reissued directly to the recipient or to an alternative representative payee. The "misuse of benefits" occurs when payments are used by the representative payee for purposes other than the "use and benefit" of the recipient. The bill would authorize the Commissioner to prescribe by regulation the meaning of the term "use and benefit."

Representative payees are not liable for misused funds. H.R. 743 would make individual payees and non-governmental organizational payees (those other than federal, state and local government agencies) liable for the reimbursement of misused funds. Such funds would be treated as overpayments to the representative payee (not the recipient), subjecting them to current overpayment recovery procedures in the Social Security Act.

Although an individual may not charge a fee for serving as a representative payee, certain organizations (such as Department of Veterans Affairs hospitals, nursing homes and nonprofit agencies) may charge a fee for serving in this capacity. The fee is based on a statutory formula and deducted from the recipient's benefit payment. H.R. 743 would require the organization to forfeit fee payments for any month for which the Commissioner or a court of jurisdiction finds that the organization misused all or part of a recipient's benefit.

The Commissioner may impose a civil monetary penalty and an assessment on persons who knowingly provide false information, or knowingly withhold information, to obtain Social Security benefits. The civil monetary penalty may be up to \$5,000 for each violation; the assessment may be up to twice the amount of benefits wrongfully paid to the individual. H.R. 743 would clarify that such penalties may be imposed on persons who withhold information that they know, or should know, affects their eligibility status or benefit amount. It would require the Commissioner to issue a receipt acknowledging notification of changes in a recipient's work or earnings status until SSA has implemented a centralized computer file to record the date on which changes in work or earnings status are reported. In addition, the measure would impose the same penalties on representative payees who misuse benefits (a civil monetary penalty of up to \$5,000 for each violation and an assessment of up to twice the amount of misused benefits).

⁷ For more information, refer to: SSA, Office of the Inspector General, "Organizational Representative Payee Program." Testimony by Inspector General James G. Huse, Jr. before the Senate Special Committee on Aging, May 2, 2000; and Testimony by Susan Daniels, Deputy Commissioner, Disability and Income Security Programs, before the House Committee on Ways and Means, Subcommittee on Social Security, May 4, 2000.

Non-governmental fee-for-service organizational payees must be bonded *or* licensed, but they are not required to submit proof of such certification. H.R. 743 would require such representative payees to be bonded *and* licensed (if licensing is available in the state) and to submit proof of such certification annually (along with a copy of any independent audit performed on the organization since the previous certification). In addition to existing periodic onsite reviews of state institutions, H.R. 743 would require periodic onsite reviews of individual representative payees who serve 15 or more recipients; non-governmental fee-for-service organizational payees; and any other agency that serves as a representative payee for 50 or more recipients. The bill would require the Commissioner to submit an annual report to Congress on the findings of such reviews, including problems identified and any action taken or planned to correct those problems.

Individuals are disqualified from serving as a representative payee if they have been convicted of fraudulent conduct involving Social Security programs. H.R. 743 would extend the restriction to individuals convicted of an offense under federal or state law that results in imprisonment for more than 1 year (unless the Commissioner determines that the individual's designation as a representative payee would be appropriate despite the conviction) and to individuals fleeing prosecution, custody, or confinement for a felony. The measure would require the Commissioner to prepare a report on the adequacy of existing procedures and reviews.

Representative payees are required to complete an annual accounting report describing how a recipient's benefits have been used. If misuse is suspected, a report may be requested by the Commissioner at any time. H.R. 743 would authorize the Commissioner to require a representative payee to collect the recipient's benefits in person at a local SSA office if he or she fails to submit annual accounting reports.

Claimant Representatives. Social Security and SSI disability claimants may choose to have an attorney or other qualified individual represent them in proceedings before SSA. The representative may charge a fee for his or her services, but the fee must be authorized by SSA under either the fee petition process or the fee agreement process. Under the fee petition process, the representative must file a fee petition with SSA after completing work on a claim (in addition, a copy must be sent to the claimant). SSA determines the amount of the fee, which is limited to 25% of past-due benefits awarded, based on factors including the complexity of the case and the type of services performed by the representative. Under the more simplified fee agreement process, the representative and the claimant must file a written fee agreement with SSA before a decision is made on the claim. In fee agreement cases, the representative's fee is limited to the lesser of 25% of past-due benefits awarded or \$5,300.

If a Social Security claimant is awarded past-due benefits and his or her representative is an attorney, SSA withholds the attorney's fee from the benefit award and pays the attorney directly. If the representative is not an attorney, or the claim is for SSI benefits, SSA pays the total benefit award to the claimant, and the representative must collect his or her fee from the recipient. To cover the administrative costs associated with the direct fee payment process, SSA charges an assessment of up to 6.3% of the attorney's

fee and deducts that amount from the attorney's fee payment.⁸ H.R. 743 would cap the assessment on attorneys' fees at \$75 (the cap would increase each year thereafter with the rate of inflation) and extend the attorney fee payment process to SSI claims. The extension of the attorney fee payment process to SSI claims would expire 5 years after implementation. In addition, the bill would require the General Accounting Office to conduct a study regarding fee withholding for *non-attorney* representatives.⁹

An attorney who is currently licensed to practice must be recognized by SSA as a claimant representative, even if he or she has been disbarred in another jurisdiction. H.R. 743 would authorize the Commissioner to refuse to recognize as an attorney representative (or disqualify if already recognized) an attorney who has been disbarred or suspended from *any* court or bar to which he or she was previously admitted to practice, or has been disqualified from participating in or appearing before any federal program or agency. H.R. 743 would authorize the Commissioner to refuse to recognize (or disqualify if already recognized) an attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice as a *non-attorney* representative.

Social Security Benefits for Fugitive Felons. The Commissioner is authorized to withhold SSI benefits from fugitive felons.¹⁰ In addition, upon written request, SSA is required to provide the current address, Social Security number and photograph of an SSI recipient in fugitive status to federal, state and local law enforcement officials to assist in the individual's apprehension. H.R. 743 would authorize the Commissioner to withhold *Social Security* benefits from fugitive felons and would require SSA to share information about such persons with law enforcement officials. In some cases, the Commissioner would be allowed, with good cause, to pay withheld Social Security benefits. Terms governing payment of withheld Social Security benefits would be prescribed by regulation.

Trial Work Period. Social Security disability recipients are entitled to a "trial work period" in which they may have earnings above a certain amount (\$570 a month in 2003) for up to 9 months (which need not be consecutive) within a rolling 60-month

⁸ The assessment on attorney fees was established under the *Ticket to Work and Work Incentives Improvement Act of 1999* (P.L. 106-170) and set at 6.3% effective January 31, 2000. For each calendar year thereafter, the rate is set at the level (not to exceed 6.3%) needed to cover full administrative costs. In calendar years 2001-2003, the rate has remained 6.3%.

⁹ For more information on the attorney fee payment process, refer to: U.S. General Accounting Office (GAO), "Paying Attorneys Who Represent Disability Applicants," testimony by Barbara D. Bovbjerg before the House Ways and Means Subcommittee on Social Security, June 14, 2000; and "Systems Support Could Improve Processing Attorney Fee Payments in the Disability Program," testimony by Barbara D. Bovbjerg before the House Ways and Means Subcommittee on Social Security, May 17, 2001.

¹⁰ As defined under Section 1611(e)(4) of the Social Security Act, a fugitive felon is "an individual fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state; or violating a condition of probation or parole imposed under federal or state law."

period without any loss of benefits. Under H.R. 743, an individual who is convicted of fraudulently concealing work activity during a trial work period would not be entitled to receive benefits for trial work period months and would be liable for repayment of those benefits, as well as any other applicable penalties, fines or assessments.

Government Pension Offset. If an individual receives a government pension based on work that was not covered by Social Security, under a provision of current law called the Government Pension Offset (GPO), his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds of the government pension. However, under the “last day rule,” an individual is exempt from the GPO if he or she worked in a government job that was covered by Social Security on his or her *last day of employment*. H.R. 743 would require individuals to work in a government job that is covered by Social Security for the *last 60 calendar months of employment* to be exempt from the GPO.¹¹

Miscellaneous Provisions. H.R. 743 would make a number of other changes designed to reduce fraud and abuse within the Social Security program, such as requiring individuals and businesses to notify prospective customers that a product or service being offered for a fee is available directly from SSA free of charge. Other provisions would add Kentucky to the list of states authorized to have retirement systems that have either Social Security or non-Social Security-covered positions, and provide compensation to Social Security Advisory Board members. Finally, the measure would make several clarifying and technical amendments to the *Ticket to Work and Work Incentives Improvement Act of 1999* and other aspects of the program.

¹¹ For more information, see GAO, “Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered,” Aug. 2002 (GAO-02-950).



February 24, 2004

Honorable Don Nickles
Chairman
Committee on the Budget
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Congressional Budget Office has estimated the effects on direct spending and revenues of H.R. 743, the Social Security Protection Act of 2004, as cleared by the Congress on February 11, 2004.

CBO estimates that the act will reduce direct spending by \$0.4 billion over the 2004-2009 period and by \$0.9 billion in the 2004-2014 period. The act also will increase revenues by an estimated \$26 million over the 11-year period. Some of these budgetary effects would involve Social Security, which is off-budget. The act would increase on-budget direct spending by about \$0.3 billion over the 2004-2014 period and decrease off-budget spending by about \$1.2 billion over that period. The enclosed table provides additional detail.

	By Fiscal Year, in Millions of Dollars										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Estimated Outlays	-42	-87	-72	-70	-64	-67	-75	-78	-83	-111	-138
Estimated Revenues	1	1	2	2	3	3	3	4	4	5	5

SOURCES: CBO and Joint Committee on Taxation.

Honorable Don Nickles
Page 2

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

Sincerely,

Douglas Holtz-Eakin
Director

Enclosure

cc: Honorable Kent Conrad
Ranking Member

Honorable Charles E. Grassley
Chairman
Committee on Finance

Honorable Max Baucus
Ranking Democratic Member

Identical letter sent to the Honorable Jim Nussle.

ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2004

By Fiscal Year, in Millions of Dollars

2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014

CHANGES IN DIRECT SPENDING (OUTLAYS)

Title I: Protection of Beneficiaries

Authority to Reissue Certain Misused Benefits

OASDI (off-budget)	2	*	*	*	*	*	*	*	*	*	*
SSI	1	*	*	*	*	*	*	*	*	*	*

Survey of Use of Payments by Representative Payees

	<u>2</u>	<u>4</u>	<u>3</u>	<u>*</u>	<u>0</u>						
--	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------

Subtotal, Title I

	5	4	3	*	*	*	*	*	*	*	*
--	---	---	---	---	---	---	---	---	---	---	---

Title II: Program Protections

Denial of Title II Benefits to Fugitives and Extension of Limited "Good-Cause" Exemption to Former Fugitives in SSI

OASDI (off-budget)	-8	-30	-44	-55	-59	-61	-63	-66	-68	-70	-72
Medicare	*	-4	-11	-15	-19	-22	-23	-25	-25	-27	-28
SSI	*	1	1	1	1	1	1	1	1	1	1

Cross-Program Recovery of Overpayments

OASDI (off-budget)	-1	-3	-3	-3	-3	-3	-3	-3	-2	-2	-2
SSI	<u>-48</u>	<u>-79</u>	<u>-43</u>	<u>-21</u>	<u>-7</u>	<u>-4</u>	<u>-5</u>	<u>-5</u>	<u>-5</u>	<u>-6</u>	<u>-6</u>

Subtotal, Title II

	-57	-116	-100	-93	-88	-89	-94	-97	-100	-105	-107
--	-----	------	------	-----	-----	-----	-----	-----	------	------	------

Title III: Attorney Fee Payment System Improvements

Cap on Attorney Assessments, OASDI (off-budget)

	10	24	25	27	28	29	31	32	33	34	35
--	----	----	----	----	----	----	----	----	----	----	----

Temporary Extension of Attorney-Fee Payment System to SSI

	0	-3	-4	-4	-4	-5	-5	-2	*	0	0
--	---	----	----	----	----	----	----	----	---	---	---

Temporary Extension of Attorney-Fee Payment System to Non-Attorney Representatives

OASDI (off-budget)	0	*	*	*	*	*	*	*	*	0	0
SSI	<u>0</u>	<u>*</u>	<u>*	*	*	*	*	*	*	0</u>	<u>0</u>

Subtotal, Title III

	10	20	21	22	23	24	25	30	33	34	35
--	----	----	----	----	----	----	----	----	----	----	----

Title IV: Miscellaneous and Technical Amendments

Extension of Sunset Date for Demonstration Projects, OASDI (off-budget)

	0	2	3	*	*	*	*	*	*	*	*
--	---	---	---	---	---	---	---	---	---	---	---

Continued

ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2004 (Continued)

	By Fiscal Year, in Millions of Dollars											
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	
Coverage under Divided Retirement Systems, OASDI (off-budget)	*	*	*	*	*	*	*	*	*	*	1	1
60-month Employment Requirement for Exemption from Government Pension Offset, OASDI (off-budget)	*	*	*	*	-2	-5	-9	-12	-19	-44	-70	
Post-1956 Military Wage Credits												
Payments to Trust Funds	903	0	0	0	0	0	0	0	0	0	0	
Receipts to OASDI Trust Funds (off-budget)	-730	0	0	0	0	0	0	0	0	0	0	
Receipt to HI Trust Fund	-173	0	0	0	0	0	0	0	0	0	0	
SSI Provisions	*	*	*	*	*	*	*	*	*	*	*	
Exemption to 84-month Rule for Certain Disabled Adult Children												
OASDI (off-budget)	1	2	2	2	2	2	3	3	3	3	3	
SSI and Medicaid	-	-	-	-	-	-	-1	-1	-1	-1	-1	
Subtotal, Title IV	*	4	5	2	*	-2	-7	-10	-16	-41	-34	
Total Changes in Direct Spending												
On-budget	685	-81	-55	-40	-30	-30	-33	-31	-30	-33	-34	
Off-budget	-727	-6	-17	-29	-34	-37	-42	-46	-53	-79	-105	
Total	-42	-87	-72	-70	-64	-67	-75	-78	-83	-111	-138	

CHANGES IN REVENUES

Title IV: Miscellaneous and Technical Amendments

Coverage Under Divided Retirement Systems											
OASDI (off-budget)	1	1	2	2	3	3	3	4	4	5	5
Other	*	*	*	*	*	*	*	*	*	*	*
Clarification of Tax Treatment of Individual Work Plans	*	*	*	*	0	0	0	0	0	0	0
Total Changes in Revenues											
On-budget	*										
Off-budget	1	1	2	2	3	3	3	4	4	5	5
Total	1	1	2	2	3	3	3	4	4	5	5

NOTES: Details may not sum to totals because of rounding. Effects on budget authority equal the effects on outlays.

OASDI=Old-Age, Survivors, and Disability Insurance (title II of Social Security Act); SSI=Supplemental Security Income (title XVI); HI=Hospital Insurance (title XVIII).

* = Less than \$500,000.



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

For Immediate Release

Tuesday, Dec. 9, 2003

Grassley Wins Senate Approval of Social Security Anti-Fraud Bill

WASHINGTON -- Sen. Chuck Grassley, chairman of the Committee on Finance, today won Senate approval of bipartisan legislation to rein in several sources of fraud, waste, and abuse of Social Security programs. The bill now goes back to the House for final congressional approval.

"Like any government program, Social Security attracts its share of con artists and scammers," Grassley said. "Fugitive felons work the system so they get Social Security benefits on the lam. Some financial guardians of the disabled make off with the payments of those in their care. We have to plug these spigots of waste, fraud and abuse. Every penny down the drain doesn't help a deserving person."

In September, Grassley received Finance Committee approval of the *Social Security Protection Act of 2003*, which he said gives the Social Security Administration important new tools to fight waste, fraud and abuse. The bill approved by the Senate today incorporates a manager's amendment that reflects a bipartisan agreement reached with the House Committee on Ways and Means. Highlights include:

Greater protection of representative payees. Grassley said the Social Security Act authorizes the appointment of representative payees to receive and manage the Social Security benefits of individuals who cannot manage their own finances because of mental or physical impairments. A representative payee may be an individual or an organization, including non-profits and state or local government agencies. Over the years, there have been numerous reports that representative payees have misused the benefits entrusted to their care. As chairman of the Senate Special Committee on Aging, Grassley held hearings on this issue and developed legislation to address this serious problem. The bill approved today includes the protections Grassley proposed in the last Congress. For example, the bill ensures that the government can replace the payments stolen from the beneficiary.

Fugitive felons. Grassley said the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 included a provision making fugitive felons ineligible to receive benefits under the Supplemental Security Income program. Since then, the Social Security Office of Inspector General and the General Accounting Office have raised concerns that fugitive felons remain eligible to receive benefits under the Old Age, Survivors and Disability Insurance program. Grassley co-sponsored legislation to address this disparity. However, some recently have raised concerns that a number of cases involve minor offenses that are decades-old and will never be prosecuted.

"I don't believe the fugitive felon program should be blindly implemented," Grassley said. "So the provision in this bill gives the Social Security Administration the authority to continue paying benefits under extenuating circumstances."

House Committee on Ways and Means

For Immediate Release:

Wednesday, February 11, 2004

Contact:

Press Office
(202) 225-8933

Increased Vigilance in Social Security Will Better Protect Seniors, Taxpayers

- **More Info on H.R. 743 can be found on our [Social Security Resource Kit](#).**

WASHINGTON - House lawmakers cleared the way for President George W. Bush to sign into law legislation strengthening Social Security by extinguishing known fraud and abuse. H.R. 743, the *Social Security Protection Act of 2003*, passed with a strong bipartisan vote of 402 - 19.

"Our seniors deserve a strong, dependable Social Security program; and taxpayers deserve to have their dollars spent as intended - helping seniors and Americans with disabilities," said Bill Thomas (R-CA), Chairman of the Committee on Ways and Means. "President Bush's signature on this common-sense, good-government legislation is long overdue."

"While this bill probably will not make front page news tomorrow, it is vitally important legislation given the tremendous impact Social Security has on all Americans," said E. Clay Shaw (R-FL), Chairman of the Ways and Means Subcommittee on Social Security. "Protecting vulnerable seniors and individuals with disabilities, stopping crooks from receiving a Social Security check, and preventing Social Security from hemorrhaging precious dollars through fraud and benefit misuse is critical."

The *Social Security Protection Act of 2003* includes the following provisions to root out fraud and abuse in Social Security programs:

- Raises standards and imposes stricter penalties to prevent representative payees who help manage the benefits of seniors and individuals with disabilities from exploiting the trust placed in them;
- Halts payments to fugitive felons and parole/probation violators;
- Helps individuals with disabilities gain access to legal representation when applying for Social Security benefits and enhances return to work opportunities; and
- Reforms a loophole in the Government Pension Offset that the nonpartisan GAO reported so far could cost the Trust Fund nearly \$450 million.

H.R. 743 was drafted in cooperation with the Social Security Administration (SSA) and the Social Security Inspector General. It enjoys the support of AARP, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the National Alliance for the Mentally Ill, the

Association of Administrative Law Judges and the National Organization of Social Security Claimants Representatives, as well as numerous law enforcement agencies. "Today's vote serves as a shining example of what Members of Congress can achieve for the American people when we work together," Shaw concluded.

Please find attached a summary of the *Social Security Protection Act of 2003*.

Social Security Protection Act of 2003 - H.R. 743

Social Security is one of our nation's most important programs, providing essential income security when a breadwinner retires, becomes disabled, or dies. Social Security and Supplemental Security Income (SSI) benefits constitute our government's largest expense-consuming approximately ¼ of our Federal budget and growing. By the time children born this year finish high school, Social Security's costs will triple. Nearly 80 percent of Americans pay more of their taxes to support Social Security than all government programs combined. Workers and beneficiaries have paid for and deserve enhanced Social Security protections to ensure precious program dollars are not lost through waste, fraud, and abuse.

The Social Security Protection Act

Protects beneficiaries from "representative payees" who misuse benefits.

- Enables the Social Security Administration (SSA) to withhold tax refunds, use contract collection agencies, and utilize other tools to collect misused benefits from representative payees.
- Raises standards and improves monitoring for those serving as representative payees.
- Imposes civil monetary penalties on those who mismanage benefits.

Denies Social Security benefits to fugitive felons and probation/parole violators.

Deters program waste, fraud, and abuse.

- Creates new civil monetary penalties for Social Security fraud.
- Increases overpayment collection by authorizing recovery across Social Security and SSI program lines.
- Prevents persons from misrepresenting themselves when providing Social Security-related services.
- Protects Social Security employees from harm while conducting their duties.

Helps individuals with disabilities gain access to representation and encourages disabled beneficiaries return to work.

- Extends direct fee payment to attorneys for individuals seeking SSI benefits, coinciding with a 5-year demonstration project that allows non-attorneys to

qualify for direct fee payment for the first time.

- Enables the SSA to better examine alternative methods of encouraging work.
- Expands eligibility for the Work Opportunity Tax Credit.
- Enables individuals receiving disability benefits based on a parent's earnings due to a childhood disability to work without fear of losing the ability to restart those benefits if they must later stop working.

Closes a loophole that enables some teachers in Texas and Georgia to contribute just a few dollars to Social Security to receive nearly \$100,000 in additional lifetime spousal benefits.

Improves and simplifies the SSI program, especially for members of the military and their families.

Has bipartisan support, the support of key stakeholders, and saves money.

- Approved by the House of Representatives on April 2, 2003 by a vote of 396-28. Approved, as amended, unanimously by the Senate on December 9, 2003.
- Supported by AARP, the National Alliance for the Mentally Ill, the Social Security Administration's Inspector General, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the Association of Administrative Law Judges, and the National Organization of Social Security Claimants Representatives, and the National Council of Social Security Management Associations.
- Saves the unified budget about \$340 million over five years and \$800 million over 10 years according to CBO.

###



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

For Immediate Release

Wednesday, March 3, 2004

Grassley Praises President's Signing of Social Security Anti-Fraud Bill

WASHINGTON -- Sen. Chuck Grassley, chairman of the Committee on Finance, today praised President Bush's signing of bipartisan legislation to rein in several sources of fraud, waste, and abuse of Social Security programs. On Tuesday, the President signed into law the *Social Security Protection Act of 2004*, which Grassley shepherded through the Senate.

"Like any government program, Social Security attracts its share of con artists and scammers," Grassley said. "Fugitive felons work the system so they get Social Security benefits on the lam. Some financial guardians of the disabled make off with the payments of those in their care. We have to plug these spigots of waste, fraud and abuse. Every penny down the drain doesn't help a deserving person. I'm glad the President signed these common-sense reforms into law."

Last September, Grassley received Finance Committee approval of the *Social Security Protection Act of 2003*, which he said gives the Social Security Administration important new tools to fight waste, fraud and abuse. The bill ultimately approved reflected a bipartisan agreement reached between the Senate and the House. Highlights include:

Greater protection of representative payees. Grassley said the Social Security Act authorizes the appointment of representative payees to receive and manage the Social Security benefits of individuals who cannot manage their own finances because of mental or physical impairments. A representative payee may be an individual or an organization, including non-profits and state or local government agencies. Over the years, there have been numerous reports that representative payees have misused the benefits entrusted to their care. As chairman of the Senate Special Committee on Aging, Grassley held hearings on this issue and developed legislation to address this serious problem. The bill signed into law includes the protections Grassley proposed in the last Congress. For example, the bill ensures that the government can replace the payments stolen from the beneficiary.

Fugitive felons. Grassley said the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 included a provision making fugitive felons ineligible to receive benefits under the Supplemental Security Income program. Since then, the Social Security Office of Inspector

General and the General Accounting Office have raised concerns that fugitive felons remain eligible to receive benefits under the Old Age, Survivors and Disability Insurance program. Grassley co-sponsored legislation to address this disparity. However, some recently have raised concerns that a number of cases involve minor offenses that are decades-old and will never be prosecuted.

“I don’t believe the fugitive felon program should be blindly implemented,” Grassley said. “So the provision in this bill gives the Social Security Administration the authority to continue paying benefits under extenuating circumstances.”

NEW SEARCH | HOME | HELP

H.R.743

Title: To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

Sponsor: Rep Shaw, E. Clay, Jr. [FL-22] (introduced 2/12/2003) **Cosponsors:** 31

Related Bills: [H.RES.168](#), [H.RES.520](#), [S.439](#)

Latest Major Action: 3/2/2004 Became Public Law No: 108-203.

Jump to: [Titles](#), [Status](#), [Committees](#), [Related Bill Details](#), [Amendments](#), [Cosponsors](#), [Summary](#)

TITLE(S): (*italics indicate a title for a portion of a bill*)

- **SHORT TITLE(S) AS INTRODUCED:**
Social Security Protection Act of 2003
 - **SHORT TITLE(S) AS REPORTED TO HOUSE:**
Social Security Protection Act of 2003
 - **SHORT TITLE(S) AS PASSED HOUSE:**
Social Security Protection Act of 2003
 - **SHORT TITLE(S) AS REPORTED TO SENATE:**
Social Security Protection Act of 2003
 - **OFFICIAL TITLE AS INTRODUCED:**
To amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.
-

STATUS: (*color indicates Senate actions*)

See also: [Related House Committee Documents](#)

2/12/2003:

Referred to the House Committee on Ways and Means.

2/19/2003:

Referred to the Subcommittee on Social Security.

2/27/2003:

Subcommittee Hearings Held.

3/13/2003:

Committee Consideration and Mark-up Session Held.

3/13/2003:

Ordered to be Reported (Amended) by the Yeas and Nays: 35 - 2.

2/13/2003:

Introductory remarks on measure. (CR [E229-230](#))

3/5/2003 10:53am:

Mr. Shaw moved to suspend the rules and pass the bill, as amended.

3/5/2003 10:53am:

Considered under suspension of the rules. (consideration: CR [H1524-1550](#))

3/5/2003 11:43am:

At the conclusion of debate, the chair put the question on the motion to suspend the rules. Mr. Doggett objected to the vote on the grounds that a quorum was not present. Further proceedings on the motion were postponed. The point of no quorum was withdrawn.

3/5/2003 1:30pm:

Considered as unfinished business. (consideration: CR H1601-1602)

3/5/2003 1:54pm:

On motion to suspend the rules and pass the bill, as amended Failed by the Yeas and Nays: (2/3 required): 249 - 180 (Roll no. 44). (text: CR H1524-1533)

3/24/2003 2:49pm:

Reported (Amended) by the Committee on Ways and Means. H. Rept. 108-46.

3/24/2003 2:49pm:

Placed on the Union Calendar, Calendar No. 28.

4/1/2003 4:24pm:

Rules Committee Resolution H. Res. 168 Reported to House. Rule provides for consideration of H.R. 743 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. The amendment recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted. Measure will be considered read. A specified amendment is in order.

4/2/2003 12:11pm:

Rule H. Res. 168 passed House.

4/2/2003 12:11pm:

Considered under the provisions of rule H. Res. 168. (consideration: CR H2625-2669; text of measure as reported in House: CR H2625-2634)

4/2/2003 12:41pm:

H.AMDT.28 Amendment in the nature of a substitute reported by the House Committee on Rules. (consideration: CR H2634-2642; text: CR H2634-2642)

An amendment in the nature of a substitute printed in the bill and considered as adopted pursuant to the provisions of H. Res. 168, for use as original text.

4/2/2003 12:42pm:

H.AMDT.28 On agreeing to the Rules amendment (A001) Agreed to without objection.

4/2/2003 1:19pm:

H.AMDT.29 Amendment (A002) in the nature of a substitute offered by Mr. Green (TX). (consideration: CR H2652-2667; text: CR H2652-2661)

Amendment in the nature of a substitute sought to delete section 418 that requires state and local government employees to be covered by Social Security for their last 60 months of employment in order to be exempt from the Government Pension Offset.

4/2/2003 2:26pm:

H.AMDT.29 On agreeing to the Green (TX) amendment (A002) Failed by the Yeas and Nays: 196 - 228 (Roll no. 100).

4/2/2003 2:27pm:

Mr. Green (TX) moved to recommit with instructions to Ways and Means. (consideration: CR H2667-2668)

4/2/2003 2:53pm:

On motion to recommit with instructions Failed by recorded vote: 203 - 220 (Roll no. 101).

4/2/2003 2:59pm:

On passage Passed by recorded vote: 396 - 28 (Roll no. 102).

4/2/2003 2:59pm:

Motion to reconsider laid on the table Agreed to without objection.

4/3/2003:

Received in the Senate and Read twice and referred to the Committee on Finance.

9/17/2003:

Committee on Finance. Ordered to be reported with an amendment in the nature of a substitute favorably.

10/29/2003:

Committee on Finance. Reported by Senator Grassley with an amendment in the nature of a substitute. With written report No. 108-176. Additional views filed.

10/29/2003:

Placed on Senate Legislative Calendar under General Orders. Calendar No. 349.

12/9/2003:

Measure laid before Senate. (consideration: CR S16159-16196; text of measure as reported in Senate: CR S16159-16180)

12/9/2003:

S.AMDT.2227 Amendment SA 2227 proposed by Senator Frist for Senator Grassley. (consideration: CR S16183)

To provide for a managers' amendment.

12/9/2003:

S.AMDT.2227 Amendment SA 2227 agreed to in Senate by Unanimous Consent.

12/9/2003:

The committee substitute as amended agreed to by Unanimous Consent.

12/9/2003:

Passed Senate with an amendment by Unanimous Consent. (text: CR S16183-16196)

1/20/2004:

Message on Senate action sent to the House.

2/10/2004 6:40pm:

Rules Committee Resolution H. Res. 520 Reported to House. Rule provides for consideration of the Senate amendment to H.R. 743 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions. It shall be in order to consider in the House, without intervention of any point of order, a motion offered by the Chairman of the Committee on Ways and Means or his designee that the House concur in the Senate amendment to H.R. 743.

2/11/2004 2:04pm:

Rule H. Res. 520 passed House.

2/11/2004 2:09pm:

Pursuant to the provisions of H. Res. 520, the House moved to agree to the Senate amendment.

2/11/2004 3:08pm:

The previous question was ordered pursuant to the rule.

2/11/2004 4:20pm:

On motion that the House agree to the Senate amendment Agreed to by the Yeas and Nays: 402 - 19 (Roll no. 23). (consideration: CR H443-465, H477-478; text as House agreed to Senate amendment: CR H443-456)

2/11/2004 4:20pm:

Motion to reconsider laid on the table Agreed to without objection.

2/11/2004:

Cleared for White House.

2/24/2004:

Presented to President.

3/2/2004:

Signed by President.

3/2/2004:

Became Public Law No: 108-203.

COMMITTEE(S):

Committee/Subcommittee:	Activity:
<u>House Ways and Means</u>	Referral, Markup, Reporting
<u>Subcommittee on Social Security</u>	Referral, Hearings
<u>Senate Finance</u>	Referral, Markup, Reporting

RELATED BILL DETAILS: (additional related bills may be identified in Status)

Bill:	Relationship:
<u>H.RES.168</u>	Rule related to H.R.743 in House
<u>H.RES.520</u>	Rule related to H.R.743 in House
<u>S.439</u>	Identical bill identified by CRS

AMENDMENT(S):

1. H.AMDT.28 to H.R.743 An amendment in the nature of a substitute printed in the bill and considered as adopted pursuant to the provisions of H. Res. 168, for use as original text.

Sponsor: House Rules (introduced 4/2/2003) **Cosponsors:** (none)

Committees: House Rules

Latest Major Action: 4/2/2003 House amendment agreed to. Status: On agreeing to the Rules amendment (A001) Agreed to without objection.

2. H.AMDT.29 to H.R.743 Amendment in the nature of a substitute sought to delete section 418 that requires state and local government employees to be covered by Social Security for their last 60 months of employment in order to be exempt from the Government Pension Offset.

Sponsor: Rep Green, Gene [TX-29] (introduced 4/2/2003) **Cosponsors:** (none)

Latest Major Action: 4/2/2003 House amendment not agreed to. Status: On agreeing to the Green (TX) amendment (A002) Failed by the Yeas and Nays: 196 - 228 (Roll no. 100).

3. S.AMDT.2227 to H.R.743 To provide for a managers' amendment.

Sponsor: Sen Grassley, Charles E. [IA] (introduced 12/9/2003) **Cosponsors:** (none)

Latest Major Action: 12/9/2003 Senate amendment agreed to. Status: Amendment SA 2227 agreed to in Senate by Unanimous Consent.

COSPONSORS(31), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)

Rep Allen, Thomas H. - 3/4/2003 [ME-1]	Rep Andrews, Robert E. - 2/26/2003 [NJ-1]
Rep Ballenger, Cass - 2/12/2003 [NC-10]	Rep Becerra, Xavier - 2/12/2003 [CA-31]
Rep Bradley, Jeb - 3/4/2003 [NH-1]	Rep Cardin, Benjamin L. - 3/5/2003 [MD-3]
Rep Carson, Julia - 3/4/2003 [IN-7]	Rep Case, Ed - 3/4/2003 [HI-2]
Rep Collins, Mac - 2/12/2003 [GA-8]	Rep Diaz-Balart, Mario - 3/4/2003 [FL-25]
Rep Fletcher, Ernie - 2/12/2003 [KY-6]	Rep Foley, Mark - 2/12/2003 [FL-16]
Rep Harris, Katherine - 2/12/2003 [FL-13]	Rep Hayworth, J. D. - 2/26/2003 [AZ-5]
Rep Hulshof, Kenny C. - 2/26/2003 [MO-9]	Rep Jones, Stephanie Tubbs - 2/12/2003 [OH-11]
Rep Lewis, Ron - 2/12/2003 [KY-2]	Rep Marshall, Jim - 2/26/2003 [GA-3]
Rep Matsui, Robert T. - 2/12/2003 [CA-5]	Rep McCotter, Thaddeus G. - 3/4/2003 [MI-11]
Rep McNulty, Michael R. - 2/26/2003 [NY-21]	Rep Northup, Anne - 2/12/2003 [KY-3]
Rep Peterson, Collin C. - 3/13/2003 [MN-7]	Rep Pomeroy, Earl - 2/12/2003 [ND]
Rep Rangel, Charles B. - 2/12/2003 [NY-15]	Rep Ross, Mike - 2/26/2003 [AR-4]
Rep Rothman, Steve R. - 3/4/2003 [NJ-9]	Rep Royce, Edward R. - 3/4/2003 [CA-40]
Rep Ryan, Paul - 2/12/2003 [WI-1]	Rep Smith, Christopher H. - 3/4/2003 [NJ-4]
Rep Whitfield, Ed - 2/12/2003 [KY-1]	

SUMMARY AS OF:

12/9/2003--Passed Senate, amended. (There are 4 other summaries)

Social Security Protection Act of 2003 - **Title I: Protection of Beneficiaries - Subtitle A: Representative Payees -** (Sec. 101) Amends titles II (Old Age, Survivors and Disability Insurance) (OASDI), VIII (Special Benefits for Certain World War II Veterans), and XVI (Supplemental Security Income) (SSI) of the Social Security Act (SSA) to direct the Commissioner of Social Security to fully reimburse Social Security beneficiaries for any part of their title II, VIII, or XVI benefits that was misused by a representative payee that is either: (1) not an individual (that is, an organization); or (2) an individual serving 15 or more beneficiaries during any month. Defines misuse of benefits as occurring when a representative payee receives payment for the use and benefit of another person or of another qualified individual and uses any part of it other than for the use and benefit of such person or individual. Excludes reissued benefits from an individual's resources.

(Sec. 102) Requires non-governmental representative payees to certify annually that they are bonded and State-licensed.

Directs the Commissioner to: (1) provide for the periodic onsite review of certain representative payees; and (2) report to Congress on the number of cases in which a representative payee was changed and the number of times in which a misuse of funds was discovered.

(Sec. 103) Prohibits a prospective representative payee from receiving anyone's title II, VIII, or XVI benefit if the prospective representative payee: (1) has been convicted of any offense under Federal or State law resulting in imprisonment for more than one year (unless the Commissioner deems such payment would be appropriate notwithstanding such conviction); or (2) is a person fleeing prosecution, custody, or confinement for a felony. Forbids a fugitive felon from serving as a representative payee. Directs the Commissioner to assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, and other identifying information upon request.

Directs the Commissioner to evaluate and report to specified congressional committees on whether the existing procedures and reviews for the qualification and disqualification of representative payees are sufficient to guard against misuse of benefits.

(Sec. 104) Prohibits a representative payee from collecting a fee for services under titles II and XVI for any month if the Commissioner or a court of competent jurisdiction determines that the representative payee has misused any amount of a benefit for such month. Declares that any amount so collected by a representative payee shall be counted as a misused part of the benefit.

(Sec. 105) Provides that a representative payee that is not a Federal, State, or local government agency will be held liable for misuse of funds collected under titles II, VIII, and XVI, and that any misused amount recovered by the Commissioner shall be refunded to the beneficiary or the alternative representative payee.

(Sec. 106) Permits the Commissioner to require a representative payee to receive payments at the local Social Security field office if the payee has failed to furnish an annual report or a report requested by the Commissioner.

(Sec. 107) Provides certain additional funds to the Inspector General of the Social Security Administration to conduct a statistically significant survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under SSA title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

Subtitle B: Enforcement - (Sec. 111) Provides that each misuse of benefits under titles II, VIII, and XVI by a representative payee shall be punishable by a civil penalty of up to \$5,000, as well as an assessment of up to twice the value of any misused payments.

Title II: Program Protections - (Sec. 201) Amends SSA title XI to provide for the imposition of civil monetary penalties, assessments, and sanctions for the failure to come forward and notify the Social Security Administration of changed circumstances that affect eligibility or benefit amount when the person knows, or should know, that the failure to come forward is misleading.

(Sec. 202) Directs the Commissioner, until a centralized computer file recording the date of information submission is in place, to issue a receipt to the beneficiary or representative each time such individual submits documentation or reports to the Commissioner on a change in status.

(Sec. 203) Amends SSA title II to deny OASDI benefits to any individual fleeing prosecution or confinement after conviction of an act or attempted act that constitutes a felony, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding one year regardless of the actual sentence imposed. (Currently the Commissioner may deny fugitive felons SSI benefits.) Prohibits benefits also for those violating probation or parole under Federal or State law. Allows the Commissioner to pay such withheld OASDI benefits for good cause shown if the offense or probation or parole violation was nonviolent and not drug-related. Requires the Commissioner to do so in the event of an acquittal, dismissal of charges, vacating of an arrest warrant, or erroneous implication in connection with the criminal offense by reason of identity fraud.

Requires the Commissioner to furnish any law enforcement officer with personal information about any beneficiary, upon request, if: (1) the beneficiary is fleeing prosecution or confinement, or violating a condition of probation or parole; and (2) the location or apprehension of the beneficiary is within the officer's official duties.

(Sec. 204) Amends SSA title XI to prohibit anyone from offering for a fee information provided free of charge by the Social Security Administration unless such individual makes clear that the information is available free of charge and complies with standards prescribed by the Commissioner regarding placement, visibility, and legibility of such notice. Specifies that such restriction does not apply to offers to serve as a claimant representative or to help prepare an individual's plan for achieving self-support.

(Sec. 205) Amends SSA title II to permit the Commissioner to: (1) refuse to recognize as a representative payee, or to disqualify as a representative payee already recognized, any attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency; and (2) refuse to recognize, or to disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. Declares that a representative payee disqualified or suspended for collecting or receiving a fee in excess of the authorized amount: (1) shall be barred from serving again until full restitution to the claimant is made; and (2) may then be considered for reinstatement only under rules prescribed by the Commissioner.

(Sec. 206) Amends SSA title XI to establish a criminal penalty of a fine of up to \$5,000 and a prison sentence of up to three years for using force or attempting to use force to obstruct or impede any SSA officer, employee, or contractor while carrying out their official activities. Makes the penalties for a mere threat of force a maximum fine of \$3,000 and a prison sentence of up to one year.

(Sec. 207) Adds specified terms to the prohibition on misuse of symbols, emblems, or names in reference to Social Security and Medicare.

(Sec. 208) Amends SSA title II to provide for disqualification from payment of any disability benefit upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work.

(Sec. 209) Authorizes judicial orders of restitution to: (1) individuals who suffer financial loss; or (2) the Commissioner for making a benefit payment that should not have been made. Requires deposit of funds paid to the Commissioner as restitution pursuant to a court order in the Federal Old-Age, and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

Prescribes a different procedure in the case of funds paid to the Commissioner with respect to an individual suffering a financial loss because of the defendant representative payee's violation of prohibitions against making false statements or representations in any application for disability benefits or of any other applicable violations. Requires the Commissioner, in such a case, to certify for payment to the victimized individual the lesser of the amount of funds paid to the Commissioner as restitution or the individual's outstanding financial loss, minus the amount of any overpayments of benefits owed by the individual.

(Sec. 210) Amends SSA title XI to permit the Commissioner to recover overpayments paid under SSA titles II, VIII, or XVI from the benefits paid under any of these programs.

(Sec. 211) Amends SSA title II to prohibit the payment of SSA title II benefits to persons not authorized to work in the United States.

Title III: Attorney Representative Fee Payment System Improvements - (Sec. 301) Amends SSA title II to set a cap of the greater of \$75 or a certain adjusted amount on the assessment owed by attorney representatives upon receiving payments for past-due OASDI benefits.

(Sec. 302) Amends SSA title XVI to provide for a temporary extension of the attorney fee payment system to SSA title XVI claims.

(Sec. 303) Directs the Commissioner to develop and carry out a nationwide demonstration project with respect to agents and other persons, other than attorneys, who represent claimants under SSA titles II and XVI before the Commissioner.

(Sec. 304) Directs the Comptroller General to evaluate and report to Congress on the appointment and payment of claimant representatives appearing before the Commissioner in connection with benefit claims under SSA titles II and XVI.

Title IV: Miscellaneous and Technical Amendments - Subtitle A: Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999 - (Sec. 401) Terminates on December 18, 2005, the authority for the Commissioner to initiate demonstration projects with respect to alternative methods of treating the work activity of individuals entitled to disability insurance benefits.

(Sec. 402) Amends the Ticket to Work and Work Incentives Improvement Act of 1999 to authorize the Commissioner to waive certain Ticket to Work and Self-Sufficiency Program requirements with respect to certain title II demonstration projects providing for reductions in disability benefits based on earnings.

(Sec. 403) Amends the Ticket to Work and Work Incentives Improvement Act of 1999 to revise funding of such demonstration projects.

(Sec. 404) Amends SSA title XI to extend the definition of disabled beneficiary for the Federal Work Incentives outreach program and State grants for work incentives assistance to individuals who: (1) are blind or disabled and receiving SSI payments; (2) receive a State Supplementary payment; or (3) are in an extended period of Medicare eligibility under title VIII after a period of title II disability has ended.

Permits services under State grants for work incentives assistance to disabled beneficiaries to include advocacy or other necessary services to maintain gainful employment in addition to those for securing or regaining such employment.

(Sec. 405) Declares that an individual work plan established under the Act shall be treated under the Internal Revenue Code as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973. (Thus provides that employers who hire disabled workers through a referral by employment networks under the Ticket to Work program also qualify for the Work Opportunity Tax Credit.)

(Sec. 406) Directs the Comptroller General to report to Congress on the Ticket to Work and Self-Sufficiency Program that: (1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel, and the Commissioner of Social Security regarding such program; (2) assesses the effectiveness of the activities carried out under such program; and (3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

(Sec. 407) Amends SSA title XI to reauthorize and extend through FY 2009 the work incentives outreach program and the program of State grants for work incentives assistance to disabled beneficiaries.

Subtitle B: Miscellaneous Amendments - (Sec. 411) Amends SSA title II to eliminate the obligation for the Social Security Administration to file a transcript with the court when it makes a remand decision fully favorable to a claimant.

(Sec. 412) Requires the Social Security Administration to prohibit the payment of Social Security benefits to beneficiaries who are removed from the United States, pursuant to a removal notice from the Attorney General or the Secretary of Homeland Security, for smuggling aliens.

(Sec. 413) Amends the Federal Reports Elimination and Sunset Act of 1995 to reinstate requirements for certain reports eliminated by such Act, including the annual reports of the Board of Trustees on the OASDI, Hospital Insurance, and Supplementary Medical Insurance trust funds, continuing disability reviews, and disability determinations.

(Sec. 414) Amends SSA title II to create an exception to the nine-month marriage requirement for survivor benefits under the Act to treat as an eligible widow or widower the spouse of a deceased man or woman whom the deceased spouse would have married earlier but for the fact that a prior spouse's institutionalization for mental incompetence or similar incapacity made a divorce illegal.

(Sec. 416) Extends to Kentucky and Louisiana the authority to operate a divided retirement system.

(Sec. 417) Amends SSA title VII to declare that members of the Social Security Advisory Board shall be compensated at the rate of pay for level IV of the Executive Schedule.

(Sec. 418) Amends SSA title II with respect to State and local government employees covered by a public pension who subsequently elect coverage under Social Security pursuant to a voluntary agreement between the State and the Commissioner. Requires such employees to be covered by Social Security for at least the last five years of their government employment in order to be exempt from the Government pension offset requirement.

(Sec. 419) Amends SSA title XI to: (1) provide for the inclusion of noncovered employees as eligible individuals entitled to Social Security account statements; (2) require the Social Security Administration to include in the account statement to noncovered employees an explanation of the maximum potential benefit reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Social Security payroll taxes; and (3) require government employers to notify newly hired noncovered employees of the maximum effect of noncovered work on their Social Security benefits.

(Sec. 420) Directs the Secretary of the Treasury to transfer from the general funds of the Treasury to the Social Security and Medicare Hospital Insurance trust funds the remaining balanced owed for deemed wage credits for persons with certain military service (eliminated by the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Reponse to Terrorist Attacks on the United States, 2002).

Repeals the authority for annual appropriations and related adjustments to compensate the Social Security Trust Fund for such military wage credits.

(Sec. 420A) Allows re-entitlement to childhood disability benefits after the seven year period if the beneficiary's previous entitlement had terminated because disability ceased owing to the performance of substantial gainful activity.

Subtitle C: Technical Amendments - (Sec. 421) Amends SSA title XI to make the Commissioner, instead of the Secretary of Health and Human Services, responsible for sending periodic Social Security statements to individuals.

(Sec. 422) Makes technical amendments with respect to: (1) retirement benefits of ministers; (2) domestic employment; and (3) self-employment income in a community property State; and (4) the Railroad Retirement and Survivors' Improvement Act of 2001.

Subtitle D: Amendments Related to Title XVI - (Sec. 430) Amends SSA title XVI to: (1) change the calculation of infrequent and irregular income from a monthly to a quarterly basis to allow individuals to exclude \$60 per quarter of unearned income and \$30 per quarter of earned income that is received irregularly and infrequently; and (2)

exclude from the determination of an individual's income all interest and dividend income earned on countable resources.

(Sec. 431) Increases from six to nine months and makes uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits, earned income tax credit payments, and child tax credit payments.

(Sec. 432) Permits the student earned income exclusion to apply to any individual under age 22 who is a student.

(Sec. 433) Requires that, in the transition to retrospective monthly accounting during the first three months of an individual's SSI eligibility, any nonrecurring income be counted only for the first month of any eligibility period in which that the income is received, and not for any other month. Provides that payments in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be nonrecurring.

(Sec. 434) Extends the current law eligibility for SSI for blind and disabled children of military personnel overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.

(Sec. 435) Excludes: (1) from the determination of income any gift to an individual for use in paying tuition or other education-related fees; and (2) from an individual's countable resources for nine months after the month of receipt any grant, scholarship, fellowship, or gift used to pay the cost of tuition and fees at any educational institution.

(Sec. 436) Provides for the treatment of military pay as received in the month in which it was earned.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

108-2

March 17, 2003

Ways and Means Committee approves H.R. 743, the Social Security Protection Act of 2003

On March 13, 2003, by a vote of 35-2, the House Committee on Ways and Means approved H.R. 743, the Social Security Protection Act of 2003. H.R. 743 is the 108th Congress's version of a similar bill from the previous Congress (H.R. 4070) which passed the House by a vote of 425-0.

The House had considered H.R. 743 on March 5, 2003 under suspension of the rules, but it did not pass. Although the vote was 249-180 in favor, under suspension of the rules, a bill requires a 2/3 majority of members voting to pass.

Following are provisions in H.R. 743 that would affect SSA-administered programs.

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Defines "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)
- Would require the Commissioner to provide for periodic onsite reviews for all

nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.

- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment unless otherwise noted.

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.

- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments when A Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner or Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

- Would deny title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole, unless the Commissioner determines that good cause exists for paying such benefits.
- Would also provide, if not in violation of Federal or State law, that the Commissioner will furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.
- Would be effective first day of month beginning on or after the date that is 9 months after enactment.

Requirements Relating to Offers to Provide for a Fee a Product or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or any other court system authorized under the statutory authority of any other Federal agency, or convicted of any offense or held civilly liable in any matter involving the Social Security Act.
- Would be effective upon enactment.

Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- Would penalize persons who attempt to intimidate or impede by force or threats of force any officer or employee of the United States acting in an official capacity under the Social Security Act or persons who in any other way obstruct or impede or attempt to obstruct or impede the administration of the Social Security Act. The maximum penalties would be \$5,000 and/or 3 years imprisonment. If the offense were committed only by threats, the person would be fined no more than \$3,000 and/or 1 year imprisonment.
- Would be effective upon enactment.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.
- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA
- Would establish a special fund in the Treasury for the deposit of funds so received to be use to defray expenses incurred in carrying out titles II, VIII, and XVI, except for recovered funds that represent benefits misused by representative payees, which shall be deposited in the trust funds of general fund of the Treasury, as appropriate.
- Would be effective with respect to violations occurring on or after enactment.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

Extension of Attorney Fee Payment System to Title XVI Claims

- Would extend the direct payment of attorney fees and the assessment for processing the fees to the SSI program.
- Would limit fees to 25% of past-due benefits (same as title II) or amount remaining after States are reimbursed for interim assistance, whichever is less.

- Would require the Comptroller General of the United States to study fee withholding for non-attorney representatives.
- Would be effective 270 days after enactment and would sunset 5 years after enactment.

Application of Demonstration Authority Sunset Date to New Projects

- Would extend the authority to include projects initiated before the 5-year period ending December 17, 2004 expires.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow BPAO services and P&A systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under title XVIII after a period of disability under title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program -

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999.)

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand made on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce due to mental incompetence or similar incapacity.
- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage under Divided Retirement System for Public Employees in Kentucky

- Would add Kentucky to the list of 21 States in the Social Security Act permitted to use the divided retirement system procedures. Under these procedures, the State has the option of extending Social Security and Medicare coverage (or Medicare coverage only) to only those current employees who wish to be covered with all future employees being covered automatically.
- Would be effective January 1, 2003.

Compensation for the Social Security Advisory Board

- Would establish compensation for SS Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in performing a function of a Board member.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

- Would require that State and local government workers be covered by Social Security throughout their last 5 years of employment with the government entity in order to be exempt from the government pension offset provision.

- Would be effective for applications filed on or after the month after the date of enactment. However, the change would not apply if (1) the worker's last day of government employment occurs before the end of the 90-day period following enactment or (2) such last day occurs after the 90-day period and such employment was covered by Social Security during the 90-day period as well as subsequent to that period.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the “Secretary of Health and Human Services” found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the “Commissioner of Social Security.”
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated
- Would be effective upon enactment.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

108-5

April 7, 2003

House Passes H.R. 743, the Social Security Protection Act of 2003

On April 2, 2003, by a vote of 396-28, the House passed H.R. 743, the Social Security Protection Act of 2003. Prior to passing the bill, the House rejected an amendment offered by Representative Green (D-TX) that would have eliminated the provision of the bill that would require State and local employees to work for five years in a job covered by Social Security in order to avoid the application of the government pension offset (GPO).

Following are provisions in H.R. 743 that would affect SSA-administered programs.

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Defines "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)

- Would require the Commissioner to provide for periodic onsite reviews for all nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.
- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment unless otherwise noted.

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.

- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments when A Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner or Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

- Would deny title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole, unless the Commissioner determines that good cause exists for paying such benefits.
- Would also provide, if not in violation of Federal or State law, that the Commissioner will furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.
- Would be effective first day of month beginning on or after the date that is 9 months after enactment.

Requirements Relating to Offers to Provide for a Fee a Product or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or any other court system authorized under the statutory authority of any other Federal agency, or convicted of any offense or held civilly liable in any matter involving the Social Security Act.
- Would be effective upon enactment.

Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- Would penalize persons who attempt to intimidate or impede by force or threats of force any officer or employee of the United States acting in an official capacity under the Social Security Act or persons who in any other way obstruct or impede or attempt to obstruct or impede the administration of the Social Security Act. The maximum penalties would be \$5,000 and/or 3 years imprisonment. If the offense were committed only by threats, the person would be fined no more than \$3,000 and/or 1 year imprisonment.
- Would be effective upon enactment.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.
- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA
- Would establish a special fund in the Treasury for the deposit of funds so received to be use to defray expenses incurred in carrying out titles II, VIII, and XVI, except for recovered funds that represent benefits misused by representative payees, which shall be deposited in the trust funds of general fund of the Treasury, as appropriate.
- Would be effective with respect to violations occurring on or after enactment.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

Extension of Attorney Fee Payment System to Title XVI Claims

- Would extend the direct payment of attorney fees and the assessment for processing the fees to the SSI program.
- Would limit fees to 25% of past-due benefits (same as title II) or amount remaining after States are reimbursed for interim assistance, whichever is less.

- Would require the Comptroller General of the United States to study fee withholding for non-attorney representatives.
- Would be effective 270 days after enactment and would sunset 5 years after enactment.

Application of Demonstration Authority Sunset Date to New Projects

- Would extend the authority to include projects initiated before the 5-year period ending December 17, 2004 expires.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow BPAO services and P&A systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under title XVIII after a period of disability under title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program –

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999.)

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand made on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce due to mental incompetence or similar incapacity.
- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage under Divided Retirement System for Public Employees in Kentucky

- Would add Kentucky to the list of 21 States in the Social Security Act permitted to use the divided retirement system procedures. Under these procedures, the State has the option of extending Social Security and Medicare coverage (or Medicare coverage only) to only those current employees who wish to be covered with all future employees being covered automatically.
- Would be effective January 1, 2003.

Compensation for the Social Security Advisory Board

- Would establish compensation for SS Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in performing a function of a Board member.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

- Would require that State and local government workers be covered by Social Security throughout their last 5 years of employment with the government entity in order to be exempt from the government pension offset provision.

- Would be effective for applications filed after the month of enactment. However, the change would not apply to applications filed after the month of enactment if (1) the worker's last day of government employment occurs before the end of the 90-day period following enactment or (2) such last day occurs after the 90-day period and such employment was covered by Social Security during the 90-day period as well as subsequent to that period.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the “Secretary of Health and Human Services” found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the “Commissioner of Social Security.”
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated
- Would be effective upon enactment.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

108-10

September 22, 2003

Senate Finance Committee Approves H.R. 743, The Social Security Protection Act of 2003

On September 17, 2003, the Senate Finance Committee amended and approved H.R. 743, the Social Security Protection Act of 2003. The House of Representatives passed H.R. 743 on April 2, 2003 (see Legislative Bulletin 108-5). The bill reported by the Finance Committee made several additions and modifications to the House-passed bill. Those provisions different from the House bill are indicated below with an asterisk. (The descriptions of the provisions are based on documents provided to the Committee and the public and did not include legislative language. The details of the descriptions of the provisions may be slightly different once the legislative language is drafted.)

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Defines "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)

- Would require the Commissioner to provide for periodic onsite reviews for all nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.
- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment unless otherwise noted.

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.

- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments when A Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, Title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

***Survey of Use of Payments to Representative Payee**

- Would authorize and appropriate \$17.8 million to OIG to conduct surveys to determine how payments made to representative payees are being used on behalf of beneficiaries.
- Would be effective upon enactment.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, Title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner or Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

***Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole**

- Would prohibit Title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole, unless the Commissioner determines that good cause exists for paying such benefits. Would amend the current prohibition of paying SSI benefits to fugitive felons so that the good cause provision would apply to Title XVI.
- Would provide that law enforcement must be pursuing an individual in order for him or her to be considered “fleeing.” Thus, before either Social Security or SSI benefits would be withheld, law enforcement would be required to notify SSA that it intends to pursue the individual by seeking arrest, extradition, prosecution, or the revocation of probation or parole.
- Would also provide, if not in violation of Federal or State law, that the Commissioner furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.

- Would be effective the first day of the month beginning on or after the date that is 9 months after enactment.

Requirements Relating to Offers to Provide for a Fee, a Product, or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or any other court system authorized under the statutory authority of any other Federal agency, or convicted of any offense or held civilly liable in any matter involving the Social Security Act.
- Would be effective upon enactment.

Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- Would penalize persons who attempt to intimidate or impede by force or threats of force any officer or employee of the United States acting in an official capacity under the Social Security Act or persons who in any other way obstruct or impede or attempt to obstruct or impede the administration of the Social Security Act. The maximum penalties would be \$5,000 and/or 3 years imprisonment. If the offense were committed only by threats, the person would be fined no more than \$3,000 and/or 1-year imprisonment.
- Would be effective upon enactment.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.
- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA
- Would establish a special fund in the Treasury for the deposit of funds so received to be used to defray expenses incurred in carrying out Titles II, VIII, and XVI, except for recovered funds that represent benefits misused by representative payees, which shall be deposited in the trust funds of general fund of the Treasury, as appropriate.
- Would be effective with respect to violations occurring on or after enactment.

***Require State and Local Government Pension Paying Entities to Indicate on a Modified Form 1099R Whether a Pension is Based on Work Not Covered by Social Security**

- Would require State and local government pension paying entities to indicate on their Form 1099R report whether the pension is based in whole or in part on earnings not covered by Social Security.

- Would be effective for tax years beginning after December 2003.

***Authorize Cross-Program Recovery for Benefit Overpayments**

- Would allow the Social Security Administration to more fully recover overpayments paid under one program from the benefits paid under another program.
- Would provide for withholding up to 100% of any underpayment and 10% of ongoing monthly benefits. To protect low-income beneficiaries, any recovery from SSI would be limited to the lesser of 100% of the monthly benefit or 10% of individual's total monthly income.
- Would be effective upon enactment.

***Prohibit Benefits to Persons Not Authorized to Work in the United States**

- Would prohibit the payment of Title II benefits to any person who is not legally permitted to engage in employment in the United States at the time of application for Title II benefits.
- Would be effective with respect to applications for benefits filed on or after January 1, 2004.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

***GAO Study of Fee Payment Process for Claimant Representatives**

- Would require the General Accounting Office to study the fee payment process and report on the potential effects of extending fee withholding to Title XVI, and allowing non-attorneys the option of fee withholding under both Titles II and XVI.
- Report would be due 24 months after date of enactment.

***Eliminate Demonstration Authority Sunset Date**

- Would provide for permanent authority to waive Title II benefit requirements to conduct experiments and demonstration projects. The current authority expires. December 17, 2004.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow BPAO services and P&A systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under Title XVIII after a period of disability under Title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program –

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999).

***GAO Report on Ticket to Work**

- Would require that GAO study and report on the effectiveness of the Ticket to Work program.

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand made on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce due to mental incompetence or similar incapacity.
- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

***Coverage under Divided Retirement System for Public Employees**

- Would extend the authority to establish a divided retirement system to all States.
- Would be effective upon enactment.

Compensation for the Social Security Advisory Board

- Would establish compensation for SS Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in the business of the Board.
- Would be effective January 1, 2003.

***60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption**

- Would require that State and local government workers be covered by Social Security throughout their last 5 years of employment with the government entity in order to be exempt from the government pension offset provision.

- Would be effective for applications filed after the month of enactment. However, would not apply to individuals whose last day of employment for the State or local governmental entity was covered by Social Security and occurs on or before December 31, 2003.

***Post-1956 Military Wage Credits**

- Would transfer from general funds the remaining balance owed to the Social Security and Medicare trust funds for deemed military wages credits for 2000 and 2001 and make conforming amendments to reflect the termination of deemed military wage credits.
- Would be effective upon enactment.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the “Secretary of Health and Human Services” found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the “Commissioner of Social Security.”
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated
- Would be effective upon enactment.

***Technical Changes to the Railroad Retirement and Survivors' Improvement Act of 2001**

- Would make a number of technical and clerical changes regarding Railroad Retirement Investment Trust relating to quorum rules, transfers, investments, administrative expenses and exemption from State and local taxes.
- Would be effective upon enactment.

***Exclusion from Income for Certain Infrequent or Irregular Income and Certain Interest or Dividend Income**

- Would change the calculation of infrequent and irregular income from a monthly to a quarterly basis Also would exclude from the determination of an individual's income all interest and dividend income earned on countable resources.
- Would be effective with respect to benefits payable for months that begin more than 90 days after the date of enactment.

***Uniform 9-Month Resource Exclusion Periods**

- Would increase to 9 months and make uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits and earned income and child tax credits.

- Would be effective for benefits payable on or after the date of enactment.

***Modification of the Dedicated Account Requirement**

- Would allow the funds in the account to be used for reimbursement of certain past expenditures incurred by the representative payee on behalf of the disabled child. Would also provide that funds from the dedicated account can be used for purposes that are for the good of the beneficiary, not just for purposes related to the impairment of the beneficiary.
- Would be effective upon January 1, 2004, and apply with respect to expenditures of funds from dedicated accounts on or after that date or accounts established on or after that date.

***Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion**

- Would permit the student earned income exclusion to apply to any individual under age 22 who is a student. Thus, students under age 22 who are married or heads of households will now be eligible for the exclusion.
- Would be effective for benefits payable beginning 1 year after month of enactment.

***Exclusion of Americorps and Other Volunteer Benefits for Purposes of Determining Supplemental Security Income Eligibility and Benefit Amounts and Social Security Disability Insurance Entitlement**

- Would exclude all payments and benefits to all Americorps volunteers, both cash and in-kind, for the purpose of determining SSI eligibility and benefit amounts and for the purpose of determining initial and continuing eligibility for Social Security disability insurance benefits.
- Would be effective for benefits payable beginning the month after the month of enactment.

***Exception to Retrospective Monthly Accounting for Nonrecurring Income**

- Would eliminate triple counting by providing that one-time, nonrecurring income would be counted only for the month that the income is received, and not for any other month during the transition to retrospective monthly accounting during the first 3 months of an individual's SSI eligibility.

- Would be effective for benefits payable for months that begin on or after 1 year following the date of enactment.

***Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled after Their Military Parents Are Stationed Overseas**

- Would extend the current law exception for SSI eligibility for blind and disabled children of military personnel overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.
- Would be effective for benefits payable for months beginning after enactment, but only on the basis of an application filed after enactment.

***Treatment of Education-Related Income and Resources**

- Would exclude from the determination of income any gift to an individual for use in paying tuition or educational fees, just as grants, scholarships and fellowships for such use are currently excluded from the determination of income.
- Would also exclude grants, scholarships, fellowships, or gifts to be used for tuition or education fees from an individual's countable resources for 9 months after the month of receipt.
- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

***Monthly Treatment of Uniformed Service Compensation**

- Would count cash military compensation as reported on a monthly leave and earnings statement issued by the military, which reflects compensation earned in the prior month, as received in the prior month.
- Would be effective for benefits payable for months beginning at least 90 days after the date of enactment.

***Update for Resource Limit**

- Would increase the resource limits to \$3,000 for individuals and \$4,500 for couples, and indexes both amounts for inflation. (Currently, the monthly resource limits are \$2,000 for individuals and \$3,000 for couples.)

- Would be effective for months that begin more than 90 days after the date of enactment.

***Review of State Agency Blindness and Disability Determinations**

- Would require the Commissioner to review 25% of all favorable SSI initial disability and blindness decisions for adults in 2004. The percentage of required reviews would increase to 50% for 2005 and beyond.
- Would be effective January 1, 2004.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

108-11

November 14, 2003

Senate Finance Committee Completes Action and Reports H.R. 743, The Social Security Protection Act of 2003

On October 29, 2003, the Senate Finance Committee reported and printed its version of H.R. 743, the Social Security Protection Act of 2003. The Committee had marked up H.R. 743 on September 17, 2003 and Legislative Bulletin 108-10 described the provisions of H.R. 743 as marked up by the Committee. Those descriptions were based on documents provided to the Committee and the public and did not include actual legislative language. This Legislative Bulletin includes revised descriptions based on the Committee Report issued on October 29, 2003. The new or revised provisions are printed in *italic*.

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Defines "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- *Excludes reissued benefits from resources under SSI for 9 months.*
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)
- Would require the Commissioner to provide for periodic onsite reviews for all

nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.

- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment unless otherwise noted.

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.

- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments when A Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, Title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

Survey of Use of Payments to Representative Payee

- Would authorize and appropriate \$17.8 million to OIG to conduct surveys to determine how payments made to representative payees are being used on behalf of beneficiaries.
- Would be effective upon enactment.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, Title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.
- *Would also authorize SSA to impose administrative sanctions for the above offense.*
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner or Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

- Would prohibit Title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole, unless the Commissioner determines that good cause exists for paying such benefits. Would amend the current prohibition of paying SSI benefits to fugitive felons so that the good cause provision would apply to Title XVI.
- Would provide that law enforcement must be pursuing an individual in order for him or her to be considered “fleeing.” Thus, before either Social Security or SSI benefits would be withheld, law enforcement would be required to notify SSA that it intends to pursue the individual by seeking arrest, extradition, prosecution, or the revocation of probation or parole.
- Would also provide, if not in violation of Federal or State law, that the Commissioner furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.

- Would be effective the first day of the month beginning on or after the date that is 9 months after enactment.

Requirements Relating to Offers to Provide for a Fee, a Product, or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or any other court system authorized under the statutory authority of any other Federal agency, or convicted of any offense or held civilly liable in any matter involving the Social Security Act.
- Would be effective upon enactment.

Criminal Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- ~~• Would penalize persons who attempt to intimidate or impede by force or threats of force any officer or employee of the United States acting in an official capacity under the Social Security Act or persons who in any other way obstruct or impede or attempt to obstruct or impede the administration of the Social Security Act. The maximum penalties would be \$5,000 and/or 3 years imprisonment. If the offense were committed only by threats, the person would be fined no more than \$3,000 and/or 1 year imprisonment.~~

- *Would define as a felony the attempt to intimidate or impede (by force or threats of force) any officer or employee of the United States acting in an official capacity under the Social Security Act. Would also define as a felony any effort to otherwise obstruct or impede the administration of the Social Security Act. Upon conviction of the use of force in either of these felonies, the maximum penalties would be \$5,000 and/or three-years imprisonment. Upon conviction of the use of threat, but not force, the maximum penalties would be no more than \$3,000 and/or one-year imprisonment.*
- Would be effective upon enactment.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.
- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA
- Would establish a special fund in the Treasury for the deposit of funds so received to be used to defray expenses incurred in carrying out Titles II, VIII, and XVI, except for recovered funds that represent benefits misused by representative payees, which shall be deposited in the trust funds of general fund of the Treasury, as appropriate.

- Would be effective with respect to violations occurring on or after enactment.

Require State and Local Government Pension Paying Entities to Indicate on a Modified Form 1099R Whether a Pension is Based on Work Not Covered by Social Security

- Would require State and local government pension paying entities to indicate on their Form 1099R report whether the pension is based in whole or in part on earnings not covered by Social Security.
- Would be effective for ~~tax years beginning~~ *distributions made* after December 2003.

Authorize Cross-Program Recovery for Benefit Overpayments

- Would allow the Social Security Administration to more fully recover overpayments paid under one program from the benefits paid under another program.
- Would provide for withholding up to 100% of any underpayment and 10% of ongoing monthly benefits. To protect low-income beneficiaries, any recovery from SSI would be limited to the lesser of 100% of the monthly benefit or 10% of individual's total monthly income.
- Would be effective upon enactment.

Prohibit Benefits to Persons Not Authorized to Work in the United States

- Would prohibit the payment of Title II benefits ~~to any person who is not legally permitted to engage in employment in the United States at the time of application for Title II benefits.~~ *based on the earnings of any noncitizen who has never been issued an SSN indicating authorization to work in the United States.*
- Would be effective with respect to applications for benefits filed on or after January 1, 2004.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

GAO Study of Fee Payment Process for Claimant Representatives

- Would require the General Accounting Office to study the fee payment process and report on the potential effects of extending fee withholding to Title XVI, and allowing non-attorneys the option of fee withholding under both Titles II and XVI.
- Report would be due 24 months after date of enactment.

Eliminate Demonstration Authority Sunset Date

- Would provide for permanent authority to waive Title II benefit requirements to conduct experiments and demonstration projects. The current authority expires December 17, 2004.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow BPAO services and P&A systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under Title XVIII after a period of disability under Title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).

- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program –

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999).

GAO Report on Ticket to Work

- Would require that GAO study and report on the effectiveness of the Ticket to Work program.

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand made on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General *and Secretary of Homeland Security* after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce due to mental incompetence or similar incapacity.
- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage under Divided Retirement System for Public Employees

- Would extend the authority to establish a divided retirement system to all States.
- Would be effective upon enactment.

Compensation for the Social Security Advisory Board

- Would establish compensation for SS Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in the business of the Board.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

- ~~Would require that State and local government workers be covered by Social Security throughout their last 5 years of employment with the government entity in order to be exempt from the government pension offset provision.~~
- *Would eliminate the present law “last day covered employment” exemption from the government pension offset (GPO) for State and local employees. Instead, would require that, in order to be exempt from the GPO, State and local government workers whose pension is based at least in part on non-covered work must be covered by Social Security at the date of enactment, or become covered under Social Security when a future section 218 agreement is executed, and must be covered by Social Security for at least the last 60 months of their government employment. For all other State and local government employees, there would be no exemption from the GPO if they are receiving a pension based in whole or in part on non-covered State or local government employment.*
- Would be effective for applications filed after the month of enactment. However, would not apply to individuals whose last day of employment for the State or local governmental entity was covered by Social Security and (1) occurs on or before December 31, 2003 or (2) occurs before June 30, 2004 subject to an employment contract entered into prior to September 30, 2003.

Post-1956 Military Wage Credits

- Would transfer from general funds the remaining balance owed to the Social Security and Medicare trust funds for deemed military wages credits for 2000 and 2001 and make conforming amendments to reflect the termination of deemed military wage credits.
- Would be effective upon enactment.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the “Secretary of Health and Human Services” found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the “Commissioner of Social Security.”
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated
- Would be effective upon enactment.

Technical Changes to the Railroad Retirement and Survivors' Improvement Act of 2001

- Would make a number of technical and clerical changes regarding Railroad Retirement Investment Trust relating to quorum rules, transfers, investments, administrative expenses and exemption from State and local taxes.
- Would be effective upon enactment.

Exclusion from Income for Certain Infrequent or Irregular Income and Certain Interest or Dividend Income

- Would change the calculation of infrequent and irregular income from a monthly to a quarterly basis Also would exclude from the determination of an individual's income all interest and dividend income earned on countable resources.
- Would be effective with respect to benefits payable for months that begin more than 90 days after the date of enactment.

Uniform 9-Month Resource Exclusion Periods

- Would increase to 9 months and make uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits and earned income and child tax credits.
- Would be effective for benefits payable on or after the date of enactment.

Modification of the Dedicated Account Requirement

- Would allow the funds in the account to be used for reimbursement of certain past expenditures incurred by the representative payee on behalf of the disabled child. Would also provide that funds from the dedicated account can be used for purposes that are for the good of the beneficiary, not just for purposes related to the impairment of the beneficiary.
- Would be effective upon January 1, 2004, and apply with respect to expenditures of funds from dedicated accounts on or after that date or accounts established on or after that date.

Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion

- Would permit the student earned income exclusion to apply to any individual under age 22 who is a student. Thus, students under age 22 who are married or heads of households will now be eligible for the exclusion.
- Would be effective for benefits payable beginning 1 year after month of enactment.

Exclusion of Americorps and Other Volunteer Benefits for Purposes of Determining Supplemental Security Income Eligibility and Benefit Amounts and Social Security Disability Insurance Entitlement

- Would exclude all payments and benefits to all Americorps volunteers, both cash and in-kind, for the purpose of determining SSI eligibility and benefit amounts and for the purpose of determining initial and continuing eligibility for Social Security disability insurance benefits.
- Would be effective for benefits payable *for months* beginning ~~the month~~ *on or after 60 days* after the month of enactment.

Exception to Retrospective Monthly Accounting for Nonrecurring Income

- Would eliminate triple counting by providing that one-time, nonrecurring income would be counted only for the month that the income is received, and not for any other month during the transition to retrospective monthly accounting during the first 3 months of an individual's SSI eligibility.
- Would be effective for benefits payable for months that begin on or after 1 year following the date of enactment.

Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled after Their Military Parents Are Stationed Overseas

- Would extend the current law exception for SSI eligibility for blind and disabled children of military personnel overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.
- Would be effective for benefits payable for months beginning after enactment, but only on the basis of an application filed after enactment.

Treatment of Education-Related Income and Resources

- Would exclude from the determination of income any gift to an individual for use in paying tuition or educational fees, just as grants, scholarships and fellowships for such use are currently excluded from the determination of income.
- Would also exclude grants, scholarships, fellowships, or gifts to be used for tuition or education fees from an individual's countable resources for 9 months after the month of receipt.
- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

Monthly Treatment of Uniformed Service Compensation

- Would count cash military compensation as reported on a monthly leave and earnings statement issued by the military, which reflects compensation earned in the prior month, as received in the prior month.
- Would be effective for benefits payable for months beginning at least 90 days after the date of enactment.

Update for Resource Limit

- Would increase the resource limits to \$3,000 for individuals and \$4,500 for couples, and indexes both amounts for inflation. (Currently, the monthly resource limits are \$2,000 for individuals and \$3,000 for couples.)
- Would be effective for months that begin more than 90 days after the date of enactment.

Review of State Agency Blindness and Disability Determinations

- Would require the Commissioner to review, *prior to awarding benefits*, 25% of all favorable SSI initial disability and blindness decisions for adults ~~in~~ *made after March 2004*. The percentage of required reviews would increase to 50% for FY 2005 and beyond.
- Would be effective January 1, 2004.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

108-16

December 15, 2003

Senate Passes H.R. 743, the Social Security Protection Act of 2003

On December 9, 2003, the Senate amended and passed H.R. 743 by unanimous consent. Unless indicated, the provisions are the same as those included in the Senate Finance Committee (SFC) approved bill (see Legislative Bulletin 108-11).

Following are descriptions of the Senate-passed H.R. 743.

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Would define "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- Would exclude reissued benefits from resources under SSI for 9 months.
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)

- Would require the Commissioner to provide for periodic onsite reviews for all nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.
- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment (except as noted above).

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the 13th month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.

- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, Title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

Survey of Use of Payments to Representative Payee

- Would authorize and appropriate up to \$8.5 million to the Commissioner to conduct statistically valid surveys to determine how payments made to representative payees are being used on behalf of OASDI and SSI beneficiaries.
- Would require the Commissioner to submit a report on the survey to the House Ways and Means and Senate Finance Committees no later than 18 months after enactment.
- Would be effective upon enactment.
- * SFC-approved bill authorized more money and required OIG to conduct survey.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, Title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.

- Would also authorize SSA to impose administrative sanctions for the above offense.
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

- Would prohibit Title II benefits to persons fleeing prosecution, custody, or confinement after conviction and to persons violating probation or parole, unless the Commissioner determines that good cause exists for paying such benefits. Would amend the current prohibition of paying SSI benefits to fugitive felons so that the good cause provision would apply to Title XVI.
- Would require the Commissioner to apply the good cause exception if a court of competent jurisdiction finds the person not guilty, charges are dismissed, a warrant for arrest is vacated, or there are similar exonerating circumstances identified by the court. The Commissioner would also apply the good cause exception if the individual establishes to the satisfaction of the Commissioner that he or she was the victim of identity fraud and the warrant was issued on such basis.

- Would provide that the Commissioner may apply the good cause exception if the criminal offense was non-violent and not drug-related, and in the case of probation or parole violators, both the violation and the underlying offense were non-violent and not drug-related. In such cases, the Commissioner may establish good cause based on mitigating factors.
- Would also provide, if not in violation of Federal or State law and upon written request, the Commissioner furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.
- Would be effective the first day of the month beginning on or after the date that is 9 months after enactment.
- * SFC-approved bill provided that individuals must be fleeing in order for the benefit prohibition to apply and did not restrict the good cause exception to non-violent or non-drug related offenses.

Requirements Relating to Offers to Provide for a Fee, a Product, or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or program.
- Would be effective upon enactment.

Criminal Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- Would impose penalties for any attempt to intimidate or impede (by force or threats of force) any officer, employee, or contractor of the United States acting in an official capacity under the Social Security Act and for any effort to otherwise obstruct or impede the administration of the Social Security Act. Upon conviction of the use of force, the maximum penalties would be \$5,000 and/or 3-years imprisonment. Upon conviction of the use of threat, but not force, the maximum penalties would be no more than \$3,000 and/or one-year imprisonment.
- Would be effective upon enactment.
- * SFC-approved bill defined such interference as a felony or misdemeanor.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.
- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA.

- Would provide that restitution funds received would be deposited to the trust funds or general fund of the Treasury, as appropriate.
- Would be effective with respect to violations occurring on or after enactment.
- * SFC-approved bill established a special fund in the Treasury to deposit restitutions.

Authorize Cross-Program Recovery for Benefit Overpayments

- Would allow the Social Security Administration to more fully recover overpayments paid under one program from the benefits paid under another program.
- Would provide for withholding up to 100% of any underpayment and 10% of ongoing monthly benefits. To protect low-income beneficiaries, any recovery from SSI would be limited to the lesser of 100% of the monthly benefit or 10% of individual's total monthly income.
- Would be effective with respect to overpayments that are outstanding at the time of enactment.

Prohibit Benefits to Persons Not Authorized to Work in the United States

- Would provide that the payment of Title II benefits based on the earnings of any noncitizen would be precluded unless (1) the noncitizen had ever been issued an SSN indicating authorization to work in the United States, or (2) the noncitizen earned a quarter of coverage during a period he/she was admitted to the United States under a B1 visa (for business purposes) or D visa (crew member--e.g., for an airline).
- Would be effective with respect to Social Security numbers issued on or after January 1, 2004.
- * SFC-approved bill did not include exceptions for certain types of visas.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

Temporary Extension of Attorney Fee Payment System to Title XVI Claims

- Would extend the current Title II attorney fee withholding process to Title XVI for a period of five years.
 - Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
 - Would adjust cap based on annual COLA's rounded down to next lower \$1.
 - Assessments would be deposited as miscellaneous receipts in the Treasury's general funds and would be available for obligation only as appropriated.
 - Would be effective with respect to fees that are first required to be certified or paid on or after the date the Commissioner submits to Congress written notice of full implementation of the requirements for operation of the demonstration project under section 303 of the Social Security Act.
- * SFC-approved bill provided only for study of extension of fee withholding to Title XVI

Nationwide Demonstration Project Providing for Extension of Fee Withholding Procedures to Non-Attorney Representatives

- Would authorize a demonstration project to allow non-attorneys the option of fee withholding under both Title II and Title XVI for 5 years.
- Would require that non-attorney representatives to meet at least the following prerequisites: hold a bachelor's degree, pass an examination written and administered by the Commissioner, secure professional liability insurance or the equivalent, undergo a criminal background check, and complete continuing education courses.
- Would allow the Commissioner to charge a reasonable fee to cover the costs of administering the prerequisites.
- Would cap the assessment for SSA processing non-attorney fees at \$75 or 6.3% of the fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.

- Assessments would be deposited in the Treasury's general funds as miscellaneous receipts or in the OASDI funds as determined appropriate by the Commissioner and would be available for obligation only as appropriated.
 - Would require the Commissioner to take the actions needed to fully implement the project and report these actions to Congress no later than one year after enactment; and thereafter to submit annual interim reports on the progress of the demonstration and a final report after the conclusion.
- * SFC-approved bill did not include this provision.

GAO Study Regarding the Fee Payment Process for Claimant Representatives

- Would require the General Accounting Office to study the results of extending fee withholding to Title XVI and to non-attorneys under both Title II and Title XVI.
 - Would require GAO to provide a comprehensive overview of the appointment and payment of claimant representatives. Report is to include a survey of all representatives and compare outcomes by the type of representative.
 - Report would be due no later than 3 years after date of enactment.
- * SFC-approved bill did not include this provision.

Application of Demonstration Authority Sunset Date to New Projects

- Would extend the demonstration authority through December 18, 2005, and would allow projects initiated by December 17, 2005 to be completed thereafter. The current authority expires on December 17, 2004.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.
- * SFC-approved bill did not include this provision.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow Benefits Planning, Assistance, and Outreach (BPAO) services and Protection and Advocacy (P&A) systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under Title XVIII after a period of disability under Title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999).

GAO Report on Ticket to Work

- Would require that GAO study and report on the effectiveness of the Ticket to Work program, including the annual and interim reports issued, effectiveness of program activities, and any recommended changes.

- The report would be due no later than one year after the date of enactment.

Reauthorization of Appropriations for Certain Work Incentives Programs

- Would extend the authorization to provide appropriate funding for the BPAO program and the State P&A systems established by the Ticket to Work Act through fiscal year 2009.
- * SFC-approved bill did not include this provision.

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General and Secretary of Homeland Security after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments caused by State restrictions on divorce due to mental incompetence or similar incapacity.

- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage under Divided Retirement System for Public Employees in Kentucky and Louisiana

- Would extend the authority to establish a divided retirement system to Kentucky and Louisiana.
- Would be effective on January 1, 2003.
- * SFC-approved bill extended current-law provision only to Kentucky

Compensation for the Social Security Advisory Board

- Would establish compensation for Social Security Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in the business of the Board.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

- Would require that State and local government workers be covered by Social Security throughout their last 60 months (5 years) of employment with the government entity in order to be exempt from the government pension offset provision.
- Would be effective for applications filed after the month of enactment. However, the change would not apply to applications filed after the month of enactment if the worker's last day of government employment occurs before July 1, 2004.

- In addition, provides for a transition for workers whose last day of government employment occurs within 5 years after the date of enactment. For those workers, requirement for the 60 consecutive months of covered employment shall be reduced (but not to less than one month) by the number of months in aggregate the worker had in covered government service under the same retirement system before the date of enactment. If the 60-month period is reduced, the months of service needed to fulfill this requirement must be performed after the date of enactment.
- * SFC-approved bill did not provide for transition.

Disclosure to Workers of Effect of Windfall Elimination Provision and Government Pension Offset Provision

- Would require SSA to send a modified Social Security Statement to non-covered employees that describes the potential benefit reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Social Security payroll taxes. Would be effective for statements issued on or after January 1, 2007.
- Would also require government employers to notify non-covered employees hired on or after January 1, 2005, of the potential effect of non-covered work on their Social Security benefits.
- * SFC-approved bill did not include this provision.

Post-1956 Military Wage Credits

- Would transfer from general funds the remaining balance owed to the Social Security and Medicare trust funds for deemed military wage credits for 2000 and 2001 and make conforming amendments to reflect the termination of deemed military wage credits.
- Would be effective upon enactment.

Elimination of Disincentive to Return-To-Work for Childhood Disability Beneficiaries

- Would allow re-entitlement to childhood disability benefits after the existing 7-year re-entitlement period if the beneficiary's previous entitlement had terminated because disability ceased due to the performance of substantial gainful activity.

- Would be effective with respect to benefits payable for months beginning with the seventh month that begins after the date of the enactment.
- * SFC-approved bill did not include this provision.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the “Secretary of Health and Human Services” found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the “Commissioner of Social Security.”
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 31, 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated.
- Would be effective upon enactment.

Technical Changes to the Railroad Retirement and Survivors' Improvement Act of 2001

- Would make a number of technical and clerical changes regarding Railroad Retirement Investment Trust relating to quorum rules, transfers, investments, administrative expenses and exemption from State and local taxes.
- Would be effective upon enactment.

Exclusion from Income for Certain Infrequent or Irregular Income and Certain Interest or Dividend Income

- Would change the calculation of infrequent and irregular income from a monthly to a quarterly basis. Also would exclude from the determination of an individual's income all interest and dividend income earned on countable resources.
- Would be effective with respect to benefits payable for months that begin more than 90 days after the date of enactment.

Uniform 9-Month Resource Exclusion Periods

- Would increase to 9 months and make uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits and earned income and child tax credits.
- Would be effective for benefits payable on or after the date of enactment.

Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion

- Would permit the student earned income exclusion to apply to any individual under age 22 who is a student. Thus, students under age 22 who are married or heads of households would be eligible for the exclusion.
- Would be effective for benefits payable beginning 1 year after month of enactment.

Exception to Retrospective Monthly Accounting for Nonrecurring Income

- Would eliminate triple counting by providing that one-time, nonrecurring income would be counted only for the month that the income is received, and not for any other month during the transition to retrospective monthly accounting during the first 3 months of an individual's SSI eligibility.
- Would be effective for benefits payable for months that begin on or after 1 year after the date of enactment.

Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled after Their Military Parents Are Stationed Overseas

- Would extend the current law exception for SSI eligibility for blind and disabled children of military personnel whose eligibility is established prior to their going overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.
- Would be effective for benefits payable for months beginning after enactment, but only on the basis of an application filed after enactment.

Treatment of Education-Related Income and Resources

- Would exclude from the determination of income any gift to an individual for use in paying tuition or educational fees, just as grants, scholarships and fellowships for such use are currently excluded from the determination of income.
- Would also exclude grants, scholarships, fellowships, or gifts to be used for tuition or education fees from an individual's countable resources for 9 months after the month of receipt.

- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

Monthly Treatment of Uniformed Service Compensation

- Would count cash military compensation as reported on a monthly leave and earnings statement issued by the military, which reflects compensation earned in the prior month, as received in the prior month.
- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

NOTE: The following provisions were dropped from the SFC-approved bill:

- * Requirement that State and local government pension paying entities indicate on a modified form 1099R whether a pension is based on work not covered by Social Security.
- * Modifications of the SSI dedicated account requirement
- * Exclusion of AmeriCorps and other volunteer benefits for purposes of determining SSI and SSDI
- * Update SSI resource limits
- * Review of State agency SSI blindness and disability determinations.



Social Security Legislative Bulletin

Number: 108-17

Date: February 11, 2004

House Passes H.R. 743, the Social Security Protection Act of 2003

On February 11, 2004, the House agreed to the Senate amendments and passed H.R. 743 by a vote of 402 to 19. The President is expected to sign the bill.

On April 2, 2003, the House passed an earlier version of H.R. 743 (see Legislative Bulletin 108-5). The Senate then amended and passed its version of H.R. 743 on December 9, 2003 (see Legislative Bulletin 108-16). The bill that passed the House on February 11, 2004 is identical to the Senate-passed H.R. 743.

Following are descriptions of provisions in the bill.

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Would define "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- Would exclude reissued benefits from resources under SSI for 9 months.
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)

- Would require the Commissioner to provide for periodic onsite reviews for all nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.
- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment (except as noted above).

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require a report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the 13th month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.
- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, Title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

Survey of Use of Payments to Representative Payee

- Would authorize and appropriate up to \$8.5 million to the Commissioner to conduct statistically valid surveys to determine how payments made to representative payees are being used on behalf of OASDI and SSI beneficiaries.
- Would require the Commissioner to submit a report on the survey to the House Ways and Means and Senate Finance Committees no later than 18 months after enactment.
- Would be effective upon enactment.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, Title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.
- Would also authorize SSA to impose administrative sanctions for the above offense.
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

- Would prohibit Title II benefits to persons fleeing prosecution, custody, or confinement after conviction and to persons violating probation or parole, unless the

Commissioner determines that good cause exists for paying such benefits. Would amend the current prohibition of paying SSI benefits to fugitive felons so that the good cause provision would apply to Title XVI.

- Would require the Commissioner to apply the good cause exception if a court of competent jurisdiction finds the person not guilty, charges are dismissed, a warrant for arrest is vacated, or there are similar exonerating circumstances identified by the court. The Commissioner would also apply the good cause exception if the individual establishes to the satisfaction of the Commissioner that he or she was the victim of identity fraud and the warrant was issued on such basis.
- Would provide that the Commissioner may apply the good cause exception if the criminal offense was non-violent and not drug-related, and in the case of probation or parole violators, both the violation and the underlying offense were non-violent and not drug-related. In such cases, the Commissioner may establish good cause based on mitigating factors.
- Would also provide, if not in violation of Federal or State law and upon written request, the Commissioner furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.
- Would be effective the first day of the month beginning on or after the date that is 9 months after enactment.

Requirements Relating to Offers to Provide for a Fee, a Product, or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or program.
- Would be effective upon enactment.

Criminal Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- Would impose penalties for any attempt to intimidate or impede (by force or threats of force) any officer, employee, or contractor of the United States acting in an official capacity under the Social Security Act and for any effort to otherwise obstruct or impede the administration of the Social Security Act. Upon conviction of the use of force, the maximum penalties would be \$5,000 and/or 3-years imprisonment. Upon conviction of the use of threat, but not force, the maximum penalties would be no more than \$3,000 and/or one-year imprisonment.
- Would be effective upon enactment.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to

receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.

- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA.
- Would provide that restitution funds received would be deposited to the trust funds or general fund of the Treasury, as appropriate.
- Would be effective with respect to violations occurring on or after enactment.

Authorize Cross-Program Recovery for Benefit Overpayments

- Would allow the Social Security Administration to more fully recover overpayments paid under one program from the benefits paid under another program.
- Would provide for withholding up to 100% of any underpayment and 10% of ongoing monthly benefits. To protect low-income beneficiaries, any recovery from SSI would be limited to the lesser of 100% of the monthly benefit or 10% of individual's total monthly income.
- Would be effective with respect to overpayments that are outstanding at the time of enactment.

Prohibit Benefits to Persons Not Authorized to Work in the United States

- Would provide that the payment of Title II benefits based on the earnings of any noncitizen would be precluded unless (1) the noncitizen had ever been issued an SSN indicating authorization to work in the United States, or (2) the noncitizen, at the time any quarters of coverage are earned, was admitted to the United States under a B1 visa (for business purposes) or D visa (crew member--e.g., for an airline).
- Would be effective with respect to Social Security numbers issued on or after January 1, 2004.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

Temporary Extension of Attorney Fee Payment System to Title XVI Claims

- Would extend the current Title II attorney fee withholding process to Title XVI for a period of five years.
- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Assessments would be deposited as miscellaneous receipts in the Treasury's general funds and would be available for obligation only as appropriated.
- Would be effective with respect to fees that are first required to be certified or paid on or after the date the Commissioner submits to Congress written notice of full implementation of the requirements for operation of the demonstration project under section 303 of the Social Security Act.

Nationwide Demonstration Project Providing for Extension of Fee Withholding Procedures to Non-Attorney Representatives

- Would authorize a demonstration project to allow non-attorneys the option of fee withholding under both Title II and Title XVI for 5 years.
- Would require that non-attorney representatives to meet at least the following prerequisites: hold a bachelor's degree, pass an examination written and administered by the Commissioner, secure professional liability insurance or the equivalent, undergo a criminal background check, and complete continuing education courses.
- Would allow the Commissioner to charge a reasonable fee to cover the costs of administering the prerequisites.

- Would cap the assessment for SSA processing non-attorney fees at \$75 or 6.3% of the fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Assessments would be deposited in the Treasury's general funds as miscellaneous receipts or in the OASDI funds as determined appropriate by the Commissioner and would be available for obligation only as appropriated.
- Would require the Commissioner to take the actions needed to fully implement the project and report these actions to Congress no later than one year after enactment; and thereafter to submit annual interim reports on the progress of the demonstration and a final report after the conclusion.

GAO Study Regarding the Fee Payment Process for Claimant Representatives

- Would require the General Accounting Office to study the results of extending fee withholding to Title XVI and to non-attorneys under both Title II and Title XVI.
- Would require GAO to provide a comprehensive overview of the appointment and payment of claimant representatives. Report is to include a survey of all representatives and compare outcomes by the type of representative.
- Report would be due no later than 3 years after date of enactment.

Application of Demonstration Authority Sunset Date to New Projects

- Would extend the demonstration authority through December 18, 2005, and would allow projects initiated by December 17, 2005 to be completed thereafter. The current authority expires on December 17, 2004.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow Benefits Planning, Assistance, and Outreach (BPAO) services and Protection and Advocacy (P&A) systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under Title XVIII after a period of disability under Title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999).

GAO Report on Ticket to Work

- Would require that GAO study and report on the effectiveness of the Ticket to Work program, including the annual and interim reports issued, effectiveness of program activities, and any recommended changes.
- The report would be due no later than one year after the date of enactment.

Reauthorization of Appropriations for Certain Work Incentives Programs

- Would extend the authorization to provide appropriate funding for the BPAO program and the State P&A systems established by the Ticket to Work Act through fiscal year 2009.

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General and Secretary of Homeland Security after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments caused by State restrictions on divorce due to mental incompetence or similar incapacity.
- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage under Divided Retirement System for Public Employees in Kentucky and Louisiana

- Would extend the authority to establish a divided retirement system to Kentucky and Louisiana.
- Would be effective on January 1, 2003.

Compensation for the Social Security Advisory Board

- Would establish compensation for Social Security Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in the business of the Board.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

- Would require that State and local government workers be covered by Social Security throughout their last 60 months (5 years) of employment with the government entity in order to be exempt from the government pension offset provision.
- Would be effective for applications filed after the month of enactment. However, the change would not apply to applications filed after the month of enactment if the worker's last day of government employment occurs before July 1, 2004.
- In addition, provides for a transition for workers whose last day of government employment occurs within 5 years after the date of enactment. For those workers, requirement for the 60 consecutive months of covered employment shall be reduced (but not to less than one month) by the number of months in aggregate the worker had in covered government service under the same retirement system before the date of enactment. If the 60-month period is reduced, the months of service needed to fulfill this requirement must be performed after the date of enactment.

Disclosure to Workers of Effect of Windfall Elimination Provision and Government Pension Offset Provision

- Would require SSA to send a modified Social Security Statement to non-covered employees that describes the potential benefit reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Social Security payroll taxes. Would be effective for statements issued on or after January 1, 2007.
- Would also require government employers to notify non-covered employees hired on or after January 1, 2005, of the potential effect of non-covered work on their Social Security benefits.

Post-1956 Military Wage Credits

- Would transfer from general funds the remaining balance owed to the Social Security and Medicare trust funds for deemed military wage credits for 2000 and 2001 and make conforming amendments to reflect the termination of deemed military wage credits.
- Would be effective no later than July 1, 2004.

Elimination of Disincentive to Return-To-Work for Childhood Disability Beneficiaries

- Would allow re-entitlement to childhood disability benefits after the existing 7-year re-entitlement period if the beneficiary's previous entitlement had terminated because disability ceased due to the performance of substantial gainful activity.
- Would be effective with respect to benefits payable for months beginning with the seventh month that begins after the date of the enactment.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the "Secretary of Health and Human Services" found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the "Commissioner of Social Security."
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 31, 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated.
- Would be effective upon enactment.

Technical Changes to the Railroad Retirement and Survivors' Improvement Act of 2001

- Would make a number of technical and clerical changes regarding Railroad Retirement Investment Trust relating to quorum rules, transfers, investments, administrative expenses and exemption from State and local taxes.
- Would be effective upon enactment.

Exclusion from Income for Certain Infrequent or Irregular Income and Certain Interest or Dividend Income

- Would change the calculation of infrequent and irregular income from a monthly to a quarterly basis. Also would exclude from the determination of an individual's income all interest and dividend income earned on countable resources.
- Would be effective with respect to benefits payable for months that begin more than 90 days after the date of enactment.

Uniform 9-Month Resource Exclusion Periods

- Would increase to 9 months and make uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits and earned income and child tax credits.
- Would be effective for benefits payable on or after the date of enactment.

Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion

- Would permit the student earned income exclusion to apply to any individual under age 22 who is a student. Thus, students under age 22 who are married or heads of households would be eligible for the exclusion.
- Would be effective for benefits payable beginning 1 year after month of enactment.

Exception to Retrospective Monthly Accounting for Nonrecurring Income

- Would eliminate triple counting by providing that one-time, nonrecurring income would be counted only for the month that the income is received, and not for any other month during the transition to retrospective monthly accounting during the first 3 months of an individual's SSI eligibility.
- Would be effective for benefits payable for months that begin on or after 1 year after the date of enactment.

Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled after Their Military Parents Are Stationed Overseas

- Would extend the current law exception for SSI eligibility for blind and disabled children of military personnel whose eligibility is established prior to their going overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.
- Would be effective for benefits payable for months beginning after enactment, but only on the basis of an application filed after enactment.

Treatment of Education-Related Income and Resources

- Would exclude from the determination of income any gift to an individual for use in paying tuition or educational fees, just as grants, scholarships and fellowships for such use are currently excluded from the determination of income.
- Would also exclude grants, scholarships, fellowships, or gifts to be used for tuition or education fees from an individual's countable resources for 9 months after the month of receipt.

- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

Monthly Treatment of Uniformed Service Compensation

- Would count cash military compensation as reported on a monthly leave and earnings statement issued by the military, which reflects compensation earned in the prior month, as received in the prior month.
- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.



Social Security Legislative Bulletin

Number: 108-18 R

Date: March 4, 2004

President Signs into Law H.R. 743, the Social Security Protection Act of 2004

On March 2, 2004, President Bush signed into law H.R. 743, the Social Security Protection Act of 2004 (Public Law 108-203).

The following descriptions of provisions in the bill include a change on page four. The text of one bullet was moved from the section "Civil Monetary Penalty Authority with respect to Wrongful Conversions by representative Payees", the second bullet (which reads "Would also authorize SSA to impose administrative sanctions for the above offense.") belongs as the second bullet in the next section "Civil Monetary Penalty Authority with Respect to Knowing Withholding of Material Facts."

Authority to Reissue Benefits Misused by Organizational Representative Payees

- Would require the Commissioner to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.
- Would define "misuse" as when a representative payee converts benefits for use other than for the beneficiary.
- Would exclude reissued benefits from resources under SSI for 9 months.
- Would be effective for determinations of misuse on or after January 1, 1995.

Oversight of Representative Payees

- Would require non-governmental fee-for-service organizational representative payees to be both licensed and bonded, provided that licensing is available in the State. (This part of provision would be effective on the first day of the 13th month after enactment.)

- Would require the Commissioner to provide for periodic onsite reviews for all nonprofit fee-for-service payees, organizational payees (both governmental and non-governmental) representing 50 or more beneficiaries, and individual payees representing 15 or more beneficiaries.
- Would require the Commissioner to report annually to Congress on the results of the onsite reviews.
- Would be effective upon enactment (except as noted above).

Disqualification From Service As Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment For More Than 1 Year, or Fleeing Prosecution, Custody, or Confinement

- Would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction. Also, would disqualify a person who is fleeing prosecution, custody, or confinement.
- Would require the Commissioner to share information with law enforcement on persons disqualified from service as representative payee.
- Would require a report to Congress 9 months after enactment whether existing reviews and procedures for payee selection provide sufficient safeguards.
- Would be effective on the first day of the 13th month after enactment.

Fee Forfeiture in Case of Benefit Misuse by Representative Payees

- Would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner or a court of competent jurisdiction.
- Would be effective for any month after 180 days after enactment in which a determination of misuse is made.

Liability of Representative Payees for Misused Benefits

- Would provide that misused benefits by a nongovernmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities.
- Would provide that any recovered benefits not reissued to the beneficiary pursuant to the first section of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.
- Would be effective with respect to benefit misuse determined 180 days after enactment.

Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting

- Would provide SSA with the authority to redirect payments of Social Security, Title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report.
- Would require the Commissioner to provide proper notice prior to redirecting benefits.
- Would be effective 180 days after enactment.

Survey of Use of Payments to Representative Payee

- Would authorize and appropriate up to \$8.5 million to the Commissioner to conduct statistically valid surveys to determine how payments made to representative payees are being used on behalf of OASDI and SSI beneficiaries.
- Would require the Commissioner to submit a report on the survey to the House Ways and Means and Senate Finance Committees no later than 18 months after enactment.
- Would be effective upon enactment.

Civil Monetary Penalty Authority With Respect to Wrongful Conversions by Representative Payees

- Would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, Title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment of not more than twice the amount of the misused payments.
- ~~Would also authorize SSA to impose administrative sanctions for the above offense.~~
- Would be effective for violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect to Knowing Withholding of Material Facts

- Would authorize SSA to impose, in addition to any other penalties that apply, civil monetary penalties of up to \$5,000 (and assessments) for withholding of information that is material in determining eligibility for, or the amount of, benefits, if the person knows, or should know, that the withholding of such information is misleading.
- *Would also authorize SSA to impose administrative sanctions for the above offense.*
- Would be effective with respect to violations committed after the date on which the Commissioner implements the centralized computer file required under the following section.

Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

- Would require the Commissioner to issue a receipt to disabled beneficiaries each time they report their work and earnings.
- Would be effective as soon as possible, but no later than 1 year after enactment and until such time as the Commissioner implements centralized computer file.

Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

- Would prohibit Title II benefits to persons fleeing prosecution, custody, or confinement after conviction and to persons violating probation or parole, unless the

Commissioner determines that good cause exists for paying such benefits. Would amend the current prohibition of paying SSI benefits to fugitive felons so that the good cause provision would apply to Title XVI.

- Would require the Commissioner to apply the good cause exception if a court of competent jurisdiction finds the person not guilty, charges are dismissed, a warrant for arrest is vacated, or there are similar exonerating circumstances identified by the court. The Commissioner would also apply the good cause exception if the individual establishes to the satisfaction of the Commissioner that he or she was the victim of identity fraud and the warrant was issued on such basis.
- Would provide that the Commissioner may apply the good cause exception if the criminal offense was non-violent and not drug-related, and in the case of probation or parole violators, both the violation and the underlying offense were non-violent and not drug-related. In such cases, the Commissioner may establish good cause based on mitigating factors.
- Would also provide, if not in violation of Federal or State law and upon written request, the Commissioner furnish law enforcement officers the current address, SSN and photograph (if applicable) if necessary for the officer to perform his duties with respect to locating and apprehending the beneficiary.
- Would be effective the first day of the month beginning on or after the date that is 9 months after enactment.

Requirements Relating to Offers to Provide for a Fee, a Product, or Service Available without Charge from the Social Security Administration

- Would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services which they provide for a fee are available directly from SSA free of charge.
- Would require that the statements comply with standards promulgated by the Commissioner with respect to their content, placement, visibility, and legibility.
- Would be effective for offers of assistance made after sixth month after enactment.
- Would require that regulations be promulgated within 1 year after enactment.

Refusal to Recognize Certain Individuals as Claimant Representatives

- Would provide that the Commissioner may, with notice and an opportunity to respond, disqualify or prohibit from further practice before SSA an attorney or non-attorney representative who has been disbarred, debarred, prohibited, or suspended from any court or bar to which he or she was previously admitted to practice, or disbarred or suspended from representing individuals before any other Federal agency or program.
- Would be effective upon enactment.

Criminal Penalty for Corrupt or Forcible Interference with Administration of Social Security Act

- Would impose penalties for any attempt to intimidate or impede (by force or threats of force) any officer, employee, or contractor of the United States acting in an official capacity under the Social Security Act and for any effort to otherwise obstruct or impede the administration of the Social Security Act. Upon conviction of the use of force, the maximum penalties would be \$5,000 and/or 3-years imprisonment. Upon conviction of the use of threat, but not force, the maximum penalties would be no more than \$3,000 and/or one-year imprisonment.
- Would be effective upon enactment.

Use of Symbols, Emblems, or Names in Reference to Social Security or Medicare

- Would update section 1140 for HCFA's new name (Centers for Medicare and Medicaid Services). The section adds Death Benefits Update, Federal Benefits Information, Funeral Expenses, etc. as items prohibited from the use of symbols, emblems or names that may provide a false impression that the item is approved or endorsed by SSA, CMS or HHS.
- Would be effective for items sent 180 days after enactment.

Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

- Would provide that an individual who is convicted by a Federal court of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to

receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties and assessments.

- Would be effective with respect to work activity performed after date of enactment.

Authority for Judicial Orders of Restitution

- Would authorize Federal courts to order a defendant convicted of defrauding Social Security, Special Veterans' Benefits or SSI to make restitution to SSA.
- Would provide that restitution funds received would be deposited to the trust funds or general fund of the Treasury, as appropriate.
- Would be effective with respect to violations occurring on or after enactment.

Authorize Cross-Program Recovery for Benefit Overpayments

- Would allow the Social Security Administration to more fully recover overpayments paid under one program from the benefits paid under another program.
- Would provide for withholding up to 100% of any underpayment and 10% of ongoing monthly benefits. To protect low-income beneficiaries, any recovery from SSI would be limited to the lesser of 100% of the monthly benefit or 10% of individual's total monthly income.
- Would be effective with respect to overpayments that are outstanding at the time of enactment.

Prohibit Benefits to Persons Not Authorized to Work in the United States

- Would provide that the payment of Title II benefits based on the earnings of any noncitizen would be precluded unless (1) the noncitizen had ever been issued an SSN indicating authorization to work in the United States, or (2) the noncitizen, at the time any quarters of coverage are earned, was admitted to the United States under a B1 visa (for business purposes) or D visa (crew member--e.g., for an airline).
- Would be effective with respect to Social Security numbers issued on or after January 1, 2004.

Cap on Attorney Assessments

- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Would be effective 180 days after enactment.

Temporary Extension of Attorney Fee Payment System to Title XVI Claims

- Would extend the current Title II attorney fee withholding process to Title XVI for a period of five years.
- Would cap the assessment for SSA processing attorney fees at \$75 or 6.3% of attorney fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Assessments would be deposited as miscellaneous receipts in the Treasury's general funds and would be available for obligation only as appropriated.
- Would be effective with respect to fees that are first required to be certified or paid on or after the date the Commissioner submits to Congress written notice of full implementation of the requirements for operation of the demonstration project under section 303 of the Social Security Act.

Nationwide Demonstration Project Providing for Extension of Fee Withholding Procedures to Non-Attorney Representatives

- Would authorize a demonstration project to allow non-attorneys the option of fee withholding under both Title II and Title XVI for 5 years.
- Would require that non-attorney representatives to meet at least the following prerequisites: hold a bachelor's degree, pass an examination written and administered by the Commissioner, secure professional liability insurance or the equivalent, undergo a criminal background check, and complete continuing education courses.
- Would allow the Commissioner to charge a reasonable fee to cover the costs of administering the prerequisites.

- Would cap the assessment for SSA processing non-attorney fees at \$75 or 6.3% of the fee, whichever is lower.
- Would adjust cap based on annual COLA's rounded down to next lower \$1.
- Assessments would be deposited in the Treasury's general funds as miscellaneous receipts or in the OASDI funds as determined appropriate by the Commissioner and would be available for obligation only as appropriated.
- Would require the Commissioner to take the actions needed to fully implement the project and report these actions to Congress no later than one year after enactment; and thereafter to submit annual interim reports on the progress of the demonstration and a final report after the conclusion.

GAO Study Regarding the Fee Payment Process for Claimant Representatives

- Would require the General Accounting Office to study the results of extending fee withholding to Title XVI and to non-attorneys under both Title II and Title XVI.
- Would require GAO to provide a comprehensive overview of the appointment and payment of claimant representatives. Report is to include a survey of all representatives and compare outcomes by the type of representative.
- Report would be due no later than 3 years after date of enactment.

Application of Demonstration Authority Sunset Date to New Projects

- Would extend the demonstration authority through December 18, 2005, and would allow projects initiated by December 17, 2005 to be completed thereafter. The current authority expires on December 17, 2004.

Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

- Would provide the Commissioner with the authority to waive requirements of section 1148 of the Social Security Act for the mandated demonstration projects.
- Would be effective upon enactment.

Funding of Demonstration Projects Provided for Reductions in Disability Insurance Benefits Based on Earnings

- Would clarify that the cost of paying increased benefits will not be appropriated while the administrative costs associated with the demonstration projects will come normally from funds available for administration.
- Would be effective upon enactment.

Availability of Federal and State Work Incentive Services to Additional Individuals

- Would allow Benefits Planning, Assistance, and Outreach (BPAO) services and Protection and Advocacy (P&A) systems services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under Title XVIII after a period of disability under Title II has ended.
- Would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans under the Ticket to Work and Self-Sufficiency Program

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999).

GAO Report on Ticket to Work

- Would require that GAO study and report on the effectiveness of the Ticket to Work program, including the annual and interim reports issued, effectiveness of program activities, and any recommended changes.
- The report would be due no later than one year after the date of enactment.

Reauthorization of Appropriations for Certain Work Incentives Programs

- Would extend the authorization to provide appropriate funding for the BPAO program and the State P&A systems established by the Ticket to Work Act through fiscal year 2009.

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

- Would provide that the Agency does not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand on or after the date of enactment.

Nonpayment of Benefits upon Removal from the United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would apply to removal notices received from the Attorney General and Secretary of Homeland Security after the date of enactment.

Reinstatement of Certain Reporting Requirements

- Would continue the requirement for the Board of Trustees report on the OASDI, HI, and SMI trust funds, continuing disability reviews reports, and the disability preeffectuation review report.
- Would be effective upon enactment.

Clarification of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments caused by State restrictions on divorce due to mental incompetence or similar incapacity.
- Would apply to applications filed during months ending after the date of enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject to the Laws of a Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage under Divided Retirement System for Public Employees in Kentucky and Louisiana

- Would extend the authority to establish a divided retirement system to Kentucky and Louisiana.
- Would be effective on January 1, 2003.

Compensation for the Social Security Advisory Board

- Would establish compensation for Social Security Advisory Board members at the daily rate of basic pay for level IV of the Senior Executive Schedule for each day in which the member is engaged in the business of the Board.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

- Would require that State and local government workers be covered by Social Security throughout their last 60 months (5 years) of employment with the government entity in order to be exempt from the government pension offset provision.
- Would be effective for applications filed after the month of enactment. However, the change would not apply to applications filed after the month of enactment if the worker's last day of government employment occurs before July 1, 2004.
- In addition, provides for a transition for workers whose last day of government employment occurs within 5 years after the date of enactment. For those workers, requirement for the 60 consecutive months of covered employment shall be reduced (but not to less than one month) by the number of months in aggregate the worker had in covered government service under the same retirement system before the date of enactment. If the 60-month period is reduced, the months of service needed to fulfill this requirement must be performed after the date of enactment.

Disclosure to Workers of Effect of Windfall Elimination Provision and Government Pension Offset Provision

- Would require SSA to send a modified Social Security Statement to non-covered employees that describes the potential benefit reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Social Security payroll taxes. Would be effective for statements issued on or after January 1, 2007.
- Would also require government employers to notify non-covered employees hired on or after January 1, 2005, of the potential effect of non-covered work on their Social Security benefits.

Post-1956 Military Wage Credits

- Would transfer from general funds the remaining balance owed to the Social Security and Medicare trust funds for deemed military wage credits for 2000 and 2001 and make conforming amendments to reflect the termination of deemed military wage credits.
- Would be effective no later than July 1, 2004.

Elimination of Disincentive to Return-To-Work for Childhood Disability Beneficiaries

- Would allow re-entitlement to childhood disability benefits after the existing 7-year re-entitlement period if the beneficiary's previous entitlement had terminated because disability ceased due to the performance of substantial gainful activity.
- Would be effective with respect to benefits payable for months beginning with the seventh month that begins after the date of the enactment.

Technical Correction Relating to Responsible Agency Head

- Would delete all references to the "Secretary of Health and Human Services" found in Section 1143 (which requires issuance of Social Security Statements) of the Social Security Act and replaces them with the "Commissioner of Social Security."
- Would be effective upon enactment.

Technical Correction Relating to Retirement Benefits of Ministers

- Would provide a conforming change to the Social Security Act to exclude, for Social Security benefit purposes, certain benefits received by retired ministers and members of religious orders. This would conform the treatment of these benefits to their treatment for Social Security tax purposes.
- Would be effective for years beginning before, on, or after December 31, 1994.

Technical Corrections Relating to Domestic Employment

- Would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment, and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections of Outdated References

- Would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended.

Technical Correction Respecting Self-Employment Income in Community Property States

- Would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated.
- Would be effective upon enactment.

Technical Changes to the Railroad Retirement and Survivors' Improvement Act of 2001

- Would make a number of technical and clerical changes regarding Railroad Retirement Investment Trust relating to quorum rules, transfers, investments, administrative expenses and exemption from State and local taxes.
- Would be effective upon enactment.

Exclusion from Income for Certain Infrequent or Irregular Income and Certain Interest or Dividend Income

- Would change the calculation of infrequent and irregular income from a monthly to a quarterly basis. Also would exclude from the determination of an individual's income all interest and dividend income earned on countable resources.
- Would be effective with respect to benefits payable for months that begin more than 90 days after the date of enactment.

Uniform 9-Month Resource Exclusion Periods

- Would increase to 9 months and make uniform the time period for excluding from resources amounts attributable to payments of past-due Social Security and SSI benefits and earned income and child tax credits.
- Would be effective for benefits payable on or after the date of enactment.

Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion

- Would permit the student earned income exclusion to apply to any individual under age 22 who is a student. Thus, students under age 22 who are married or heads of households would be eligible for the exclusion.
- Would be effective for benefits payable beginning 1 year after month of enactment.

Exception to Retrospective Monthly Accounting for Nonrecurring Income

- Would eliminate triple counting by providing that one-time, nonrecurring income would be counted only for the month that the income is received, and not for any other month during the transition to retrospective monthly accounting during the first 3 months of an individual's SSI eligibility.
- Would be effective for benefits payable for months that begin on or after 1 year after the date of enactment.

Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled after Their Military Parents Are Stationed Overseas

- Would extend the current law exception for SSI eligibility for blind and disabled children of military personnel whose eligibility is established prior to their going overseas to blind and disabled children of military personnel who were born overseas, who became blind or disabled while overseas, or who first applied for SSI benefits overseas.
- Would be effective for benefits payable for months beginning after enactment, but only on the basis of an application filed after enactment.

Treatment of Education-Related Income and Resources

- Would exclude from the determination of income any gift to an individual for use in paying tuition or educational fees, just as grants, scholarships and fellowships for such use are currently excluded from the determination of income.
- Would also exclude grants, scholarships, fellowships, or gifts to be used for tuition or education fees from an individual's countable resources for 9 months after the month of receipt.

- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

Monthly Treatment of Uniformed Service Compensation

- Would count cash military compensation as reported on a monthly leave and earnings statement issued by the military, which reflects compensation earned in the prior month, as received in the prior month.
- Would be effective for benefits payable for months that begin more than 90 days after the date of enactment.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

107-16

April 26, 2002

H.R. 4070, "Social Security Program Protection Act of 2002"

On April 25, 2002, the Social Security Subcommittee of the House Ways and Means Committee marked up H.R. 4070, the "Social Security Program Protection Act of 2002." The subcommittee adopted by voice vote Chairman Shaw's (R-FL) amendment in the nature of the substitute and reported the bill as amended to the Committee on Ways and Means. The reported bill includes the following provisions.

Authority To Reissue Benefits Misused By Organizational Representative Payees

- Would provide for the reissuance of title II, title VIII, and title XVI benefits in case of benefit misuse by an organizational payee or an individual payee who serves 15 or more beneficiaries. Under present law, benefits can be reissued only where there was negligent failure on SSA's part to investigate or monitor the performance of the payee. In all other cases, the individual loses his or her funds unless SSA can obtain restitution of the misused benefits from the payee, or unless the individual obtains restitution from the payee through other means, such as a civil lawsuit.
- Would define "misuse of benefits" by a representative payee in titles II, VIII, and XVI. Present law provides that benefits paid to a representative payee on behalf of an individual are for the individual's "use or benefit", but does not contain a definition of misuse.
- Would provide that reissued title II, VIII, and XVI benefits would be excluded from resources for purposes of determining SSI eligibility for 9 months after the month in which the reissued benefits are received.
- Would be effective with respect to misuse determinations made on or after January 1, 1995.

Oversight of Representative Payees

- Would require that, in order to receive a fee for serving as a title II or title XVI representative payee, nongovernmental organizational representative payees certify annually that they are both bonded and licensed, provided that licensing is available in the State. Would be effective on the first day of the thirteenth month beginning after the date of enactment.
- Would require periodic onsite review of title II, VIII, and XVI representative payees who are either individual payees serving 15 or more beneficiaries, nongovernmental fee-for-service payees, or any other organizational or governmental representative payee that serves 50 or more beneficiaries. Would be effective upon enactment.
- Would require the Commissioner, within 120 days after the end of each fiscal year, to submit to the House Ways and Means Committee and the Senate Finance Committee a report on the results of the periodic reviews conducted during the subject fiscal year.

Disqualification From Service As Representative Payee Upon Conviction Of Offenses Resulting In Imprisonment For More Than 1 Year And Upon Fugitive Felon Status

- Would provide that a person who has been convicted of an offense that resulted in imprisonment for more than 1 year could not be appointed as representative payee for title II, VIII, or XVI benefits, unless the Commissioner determines that such appointment would be appropriate, notwithstanding such conviction.
- Would provide that a person who is a fugitive felon could not be appointed as representative payee for title II, VIII, or XVI benefits.
- Would require, within 270 days of enactment, the Commissioner in consultation with the Inspector General to submit a report to Congress evaluating whether existing reviews and procedures relating to the qualification/disqualification of representative payees provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month beginning after the date of enactment.

Fee Forfeiture In Case Of Benefit Misuse By Representative Payees

- Would provide that an organization qualified to collect a fee for serving as a title II or title XVI representative payee could not collect a fee for any month that it is determined that the organization misused all or part of the individual's benefit.

- Would be effective in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

Liability Of Representative Payees For Misused Benefits

- Would provide that the amount of benefits misused by a nongovernmental representative payee would be treated as overpayments to the representative payee, subject to current overpayment recovery authorities. Any recovered amounts not reissued to the beneficiary pursuant to section 101 of the bill would be reissued to the beneficiary or his alternative representative payee, up to the total amount misused.
- Would be effective in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

Authority To Redirect Delivery Of Benefit Payments When A Representative Payee Fails To Provide Required Accounting

- Would provide SSA with the authority to redirect payment of title II, VIII, and XVI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report. SSA would be required to provide proper notice prior to redirecting benefits. Under present law, there is no authority to redirect benefit payments.
- Would be effective 180 days after the date of enactment.

Civil Monetary Penalty Authority With Respect To Wrongful Conversions By Representative Payees

- Would give SSA the authority to impose civil monetary penalties for offenses involving misuse of title II, VIII, or XVI benefits received by a representative payee on behalf of an individual. The amount of the penalty would be up to \$5,000 for each such violation. In addition, the representative payee would be subject to an assessment of not more than twice the amount of the misused benefits. Under present law, civil monetary penalties do not apply to misuse of benefits by representative payees.
- Would be effective with respect to violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect To Knowing Withholding Of Material Facts

- Would give SSA the authority to impose civil monetary penalties and administrative penalties of nonpayment of benefits against individuals who withhold disclosure of facts that are material to the initial or continuing entitlement to title II, VIII, or XVI

benefits. Under present law, such penalties can be imposed only if the individual makes a false statement of a material fact, or omits a material fact while providing a statement.

- Would be effective with respect to violations committed after the date of enactment.
- Would require the Commissioner, effective 180 days after enactment, to issue a receipt to a beneficiary each time he or she submits documentation or otherwise reports a change in earnings or work status.

Denial Of Title II Benefits To Fugitive Felons And Persons Fleeing Prosecution

- Would deny title II benefits to fugitive felons and individuals who are violating a condition of probation or parole imposed under Federal or State law.
- Would require the Commissioner to furnish (unless it would violate other Federal or State law) law enforcement officers the current address, SSN and photograph (if applicable) of any beneficiary under this title upon written request of the officer. The written request must provide sufficient identifying information for the Commissioner to uniquely identify the beneficiary, and must establish that the beneficiary is a fugitive felon or probation or parole violator, has information needed by the officer to perform his/her official duties, and that locating/apprehending the beneficiary is within the scope of the officer's official duties.
- Would be effective upon enactment.

Requirements Relating To Offers To Provide For A Fee A Product Or Service Available Without Charge From The Social Security Administration.

- Would amend section 1140 of the Social Security Act by adding a mandatory requirement that persons or companies include in their solicitations a statement that services that they provide for a fee are available directly from SSA free of charge. The statement would be required to comply with standards promulgated by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility.
- Would be effective with respect to offers made after the sixth month ending after the Commissioner promulgates the regulations describing the necessary standards. Requires that the final regulations be promulgated within 1 year after the date of enactment.

Refusal To Recognize Certain Individuals As Claimant Representatives

- Would authorize the Commissioner to refuse to recognize a representative and disqualify a representative already recognized, who has been disbarred, suspended, or disqualified from participating in or appearing before any Federal program or agency from which he or she was previously admitted to practice in any jurisdiction.
- Would be effective upon enactment.

Penalty For Corrupt Or Forcible Interference With Administration Of The Social Security Act

- Would require a fine of not more than \$5000, imprisonment of not more than three years, or both, for anyone who corruptly or by force, impedes or attempts to impede or obstruct the administration of the Social Security Act. If the offense is committed only by threats of force, the penalty would be a fine of not more than \$3000, imprisonment for not more than one year, or both.
- Would be effective upon enactment.

Cap On Attorney Assessments

- Would cap the amount of the attorney fee assessment at the lower of 6.3% percent of the attorney fee certified or paid from the claimant's past-due benefits, or \$100.
- Would be effective with first day of the month that begins on or after 180 days after enactment.

Extension Of Attorney Fee Payment System To Title XVI Claims

- Would extend fee withholding and direct payment of attorney fees to the SSI program. Fees would be authorized as under current law, but payment of fees would be limited in any case to amount remaining after interim assistance reimbursement if less than the authorized fee.
- Would be effective with the month beginning on or after 270 days after enactment.
- Would require the Commissioner to prepare a report evaluating the feasibility of extending to non-attorney representatives the direct fee withholding and payment provisions that apply to attorney representatives.

Application Of Demonstration Authority Sunset Date To New Projects

- Would extend the general title II disability program demonstration project waiver authority to include projects initiated before the expiration of the 5-year period (ending December 17, 2004).
- Would be effective upon enactment.

Expansion Of Waiver Authority Available In Connection With Demonstration Projects Providing For Reductions In Disability Insurance Benefits Based On Earnings

- Would authorize the Commissioner to waive requirements of section 1148 of the Social Security Act, which pertains to the Ticket to Work and Self-Sufficiency program and the provision of rehabilitation and return-to-work services.
- Would be effective upon enactment.

Funding Of Demonstration Projects Providing For Reductions In Disability Insurance Benefits Based On Earnings

- Would change financial authorization language in the Ticket to Work and Self-Sufficiency Act to specify that benefits associated with the \$1-for-\$2 demonstration will be paid directly from the OASI, DI, HI, and SMI trust funds.
- Would be effective upon enactment.

Availability Of Federal And State Work Incentive Services To Additional Individuals

- Would allow Benefit Planning, Assistance and Outreach (BPAO) services and Protection and Advocacy (P&A) System services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under title XVIII after a period of disability under title II has ended.
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment For Certain Purposes Of Individual Work Plans Under The Ticket To Work And Self-Sufficiency Program

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L. 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999.)

Elimination Of Transcript Requirement In Remand Cases Fully Favorable To The Claimant

- Would provide that SSA would not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand made on or after the date of enactment.

Nonpayment Of Benefits Upon Removal From The United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would be effective for aliens removed from the United States after the date of enactment.

Reinstatement Of Certain Reporting Requirements

- Would reinstate the following report requirements, which were eliminated as a result of provisions in P.L. 104-66, the "Federal Reports Elimination and Sunset Act of 1995."
 - Trustees reports on OASDI, HI, and SMI trust funds;
 - Continuing disability reviews report; and
 - Disability preeffectuation review report.

Use Of Symbols, Emblems, Or Names In Reference To Social Security Or Medicare

- Would update section 1140 of the Social Security Act to include the Health Care Financing Administration's (HCFA) new name - Center for Medicare and Medicaid Services (CMS) in the names prohibited from use in specified circumstances. It would also add Death Benefits Update, Federal Benefits Information, Funeral Expenses, and Final Supplemental Plan to the terms that are prohibited from use because they may give a false impression that an item is approved or endorsed by SSA, CMS, or HHS.
- Would be effective with respect to items set forth after the sixth month after the Commissioner promulgates final regulations prescribing the standards applicable. Requires that final regulations be promulgated within 1 year after the date of enactment.

Clarification Of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce from a prior spouse institutionalized due to mental incompetence or similar incapacity.
- Would be effective based on applications for benefits filed after the date of enactment.

Clarification Respecting The FICA And SECA Tax Exemptions For An Individual Whose Earnings Are Subject To The Laws Of A Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Technical Correction Relating To Responsible Agency Head

- Would delete all references to the "Secretary of Health and Human Services" in section 1143 of the Social Security Act (with regard to issuance of Social Security statements) and replace them with the "Commissioner of Social Security."
- Would be effective upon enactment.

Technical Correction Relating To Retirement Benefits Of Ministers

- Would conform the Social Security Act to the change made to the tax provisions in the Internal Revenue Code in 1996 by excluding from coverage for Social Security benefit purposes certain benefits (including a parsonage allowance) received by a retired minister or member of a religious order.
- Would be effective for years beginning before, on or after December 31, 1994.

Technical Correction Relating To Domestic Employment

- Would remove the references to domestic employment that appear in the provisions in the law that define agricultural employment. Further, the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.

Technical Corrections Of Outdated References

- Would change the Act to correct terminology and citations respecting removal from the United States.
- Would change the Act to correct the citation with respect to the tax deduction relating to health insurance costs of self-employed individuals.
- Would change the Code to eliminate the reference to the obsolete 20-day agricultural work test.
- Would be effective upon enactment.

Technical Correction Respecting Self-Employment Income In Community Property States

- Would conform identical provisions in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States (i.e., to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who earned the income in carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated).
- Would be effective upon enactment.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

107-24

June 28, 2002

House Passes H.R. 4070, "Social Security Program Protection Act of 2002"

On June 26, 2002, the House passed H.R. 4070 (by a vote of 425 yeas to 0 nays), the "Social Security Program Protection Act of 2002." The House-passed bill includes the following provisions.

Authority To Reissue Benefits Misused By Organizational Representative Payees

- Would provide for the reissuance of title II, title VIII, and title XVI benefits in case of benefit misuse by an organizational payee or an individual payee who serves 15 or more beneficiaries. Under present law, benefits can be reissued only where there was negligent failure on SSA's part to investigate or monitor the performance of the payee. In all other cases, the individual loses his or her funds unless SSA can obtain restitution of the misused benefits from the payee, or unless the individual obtains restitution from the payee through other means, such as a civil lawsuit.
- Would define "misuse of benefits" by a representative payee in titles II, VIII, and XVI. Present law provides that benefits paid to a representative payee on behalf of an individual are for the individual's "use or benefit", but does not contain a definition of misuse.
- Would provide that reissued title II, VIII, and XVI benefits would be excluded from resources for purposes of determining SSI eligibility for 9 months after the month in which the reissued benefits are received.
- Would be effective with respect to misuse determinations made on or after January 1, 1995.

Oversight of Representative Payees

- Would require that, in order to receive a fee for serving as a title II or title XVI representative payee, nongovernmental organizational representative payees certify annually that they are both bonded and licensed, provided that licensing is available in the State. Would be effective on the first day of the thirteenth month beginning after the date of enactment.
- Would require periodic onsite review of title II, VIII, and XVI representative payees who are either individual payees serving 15 or more beneficiaries, nongovernmental fee-for-service payees, or any other organizational or governmental representative payee that serves 50 or more beneficiaries. Would be effective upon enactment.
- Would require the Commissioner, within 120 days after the end of each fiscal year, to submit to the House Ways and Means Committee and the Senate Finance Committee a report on the results of the periodic reviews conducted during the subject fiscal year.

Disqualification From Service As Representative Payee Upon Conviction Of Offenses Resulting In Imprisonment For More Than 1 Year And Upon Fugitive Felon Status

- Would provide that a person who has been convicted of an offense that resulted in imprisonment for more than 1 year could not be appointed as representative payee for title II, VIII, or XVI benefits, unless the Commissioner determines that such appointment would be appropriate, notwithstanding such conviction.
- Would provide that a person who is a fugitive felon could not be appointed as representative payee for title II, VIII, or XVI benefits.
- Would require, within 270 days of enactment, the Commissioner in consultation with the Inspector General to submit a report to Congress evaluating whether existing reviews and procedures relating to the qualification/disqualification of representative payees provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month beginning after the date of enactment.

Fee Forfeiture In Case Of Benefit Misuse By Representative Payees

- Would provide that an organization qualified to collect a fee for serving as a title II or title XVI representative payee could not collect a fee for any month that it is determined that the organization misused all or part of the individual's benefit.

- Would be effective in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

Liability Of Representative Payees For Misused Benefits

- Would provide that the amount of benefits misused by a nongovernmental representative payee would be treated as overpayments to the representative payee, subject to current overpayment recovery authorities. Any recovered amounts not reissued to the beneficiary pursuant to section 101 of the bill would be reissued to the beneficiary or his alternative representative payee, up to the total amount misused.
- Would be effective in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

Authority To Redirect Delivery Of Benefit Payments When A Representative Payee Fails To Provide Required Accounting

- Would provide SSA with the authority to redirect payment of title II, VIII, and XVI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report. SSA would be required to provide proper notice prior to redirecting benefits. Under present law, there is no authority to redirect benefit payments.
- Would be effective 180 days after the date of enactment.

Civil Monetary Penalty Authority With Respect To Wrongful Conversions By Representative Payees

- Would give SSA the authority to impose civil monetary penalties for offenses involving misuse of title II, VIII, or XVI benefits received by a representative payee on behalf of an individual. The amount of the penalty would be up to \$5,000 for each such violation. In addition, the representative payee would be subject to an assessment of not more than twice the amount of the misused benefits. Under present law, civil monetary penalties do not apply to misuse of benefits by representative payees.
- Would be effective with respect to violations committed after the date of enactment.

Civil Monetary Penalty Authority With Respect To Knowing Withholding Of Material Facts

- Would give SSA the authority to impose civil monetary penalties and administrative penalties of nonpayment of benefits against individuals who conceal or withhold disclosure of facts that are material to the initial or continuing entitlement to title II,

VIII, or XVI benefits. Under present law, such penalties can be imposed only if the individual makes a false statement of a material fact, or omits a material fact while providing a statement.

- Would require the Commissioner, effective 180 days after enactment, to issue a receipt to a beneficiary each time he or she submits documentation or otherwise reports a change in earnings or work status and to continue to issue such receipts until a centralized computer file recording the date of the submission of such information is implemented.
- Would be effective with respect to violations committed after the later of (1) 180 days after the date of enactment, or (2) the earlier of the date on which the Commissioner implements the system for issuing receipts, or implements the centralized computer file described above.

Denial Of Title II Benefits To Fugitive Felons And Persons Fleeing Prosecution

- Would deny title II benefits to fugitive felons and individuals who are fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which a person flees, or in the case of New Jersey, is a high misdemeanor under the laws of such state, or is violating a condition of probation or parole imposed under Federal or State law.
- Would require the Commissioner to furnish (unless it would violate other Federal or State law) law enforcement officers the current address, SSN and photograph (if applicable) of any beneficiary under this title upon written request of the officer. The written request must provide sufficient identifying information for the Commissioner to uniquely identify the beneficiary, and must establish that the beneficiary is a fugitive felon or probation or parole violator, has information needed by the officer to perform his/her official duties, and that locating/apprehending the beneficiary is within the scope of the officer's official duties.
- Would be effective upon enactment.

Requirements Relating To Offers To Provide For A Fee A Product Or Service Available Without Charge From The Social Security Administration.

- Would amend section 1140 of the Social Security Act by adding a mandatory requirement that persons or companies include in their solicitations a statement that services that they provide for a fee are available directly from SSA free of charge. The statement would be required to comply with standards promulgated by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility.

- Would be effective 180 days after the date of enactment.

Refusal To Recognize Certain Individuals As Claimant Representatives

- Would authorize the Commissioner to refuse to recognize a representative and disqualify a representative already recognized, who has been disbarred, suspended, or disqualified from participating in or appearing before any Federal program or agency from which he or she was previously admitted to practice in any jurisdiction.
- Would be effective upon enactment.

Penalty For Corrupt Or Forcible Interference With Administration Of The Social Security Act

- Would require a fine of not more than \$5000, imprisonment of not more than three years, or both, for anyone who corruptly or by force, impedes or attempts to impede or obstruct the administration of the Social Security Act. If the offense is committed only by threats of force, the penalty would be a fine of not more than \$3000, imprisonment for not more than one year, or both.
- Would be effective upon enactment.

Use Of Symbols, Emblems, Or Names In Reference To Social Security Or Medicare

- Would update section 1140 of the Social Security Act to include the Health Care Financing Administration's (HCFA) new name - Center for Medicare and Medicaid Services (CMS) in the names prohibited from use in specified circumstances. It would also add Death Benefits Update, Federal Benefits Information, Funeral Expenses, and Final Supplemental Plan to the terms that are prohibited from use because they may give a false impression that an item is approved or endorsed by SSA, CMS, or HHS.
- Would be effective 180 days after the date of enactment.

Cap On Attorney Assessments

- Would cap the amount of the attorney fee assessment at the lower of 6.3% percent of the attorney fee certified or paid from the claimant's past-due benefits, or \$100.
- Would apply with respect to attorney fees which are first required to be certified or paid in or after the month beginning 180 days after enactment.

Extension Of Attorney Fee Payment System To Title XVI Claims

- Would extend fee withholding and direct payment of attorney fees to the SSI program. Fees would be authorized as under current law, but payment of fees would be limited in any case to amount remaining after interim assistance reimbursement if less than the authorized fee.
- Would apply with respect to attorney fees which are first required to be certified or paid in or after the month beginning 270 days after enactment.
- Would require the Commissioner to prepare a report evaluating the feasibility of extending to non-attorney representatives the direct fee withholding and payment provisions that apply to attorney representatives no later than 270 days after enactment.

Application Of Demonstration Authority Sunset Date To New Projects

- Would extend the general title II disability program demonstration project waiver authority to include projects initiated before the expiration of the 5-year period (ending December 17, 2004).
- Would be effective upon enactment.

Expansion Of Waiver Authority Available In Connection With Demonstration Projects Providing For Reductions In Disability Insurance Benefits Based On Earnings

- Would authorize the Commissioner to waive requirements of section 1148 of the Social Security Act, which pertains to the Ticket to Work and Self-Sufficiency program and the provision of rehabilitation and return-to-work services.
- Would be effective upon enactment.

Funding Of Demonstration Projects Providing For Reductions In Disability Insurance Benefits Based On Earnings

- Would change financial authorization language in the Ticket to Work and Self-Sufficiency Act to specify that benefits associated with the \$1-for-\$2 demonstration will be paid directly from the OASI, DI, HI, and SMI trust funds.
- Would be effective upon enactment.

Availability Of Federal And State Work Incentive Services To Additional Individuals

- Would allow Benefit Planning, Assistance and Outreach (BPAO) services and Protection and Advocacy (P&A) System services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under title XVIII after a period of disability under title II has ended, and would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment For Certain Purposes Of Individual Work Plans Under The Ticket To Work And Self-Sufficiency Program

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999.)

Elimination Of Transcript Requirement In Remand Cases Fully Favorable To The Claimant

- Would provide that SSA would not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to determinations made upon remand made on or after the date of enactment.

Nonpayment Of Benefits Upon Removal From The United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would be effective for aliens removed from the United States after the date of enactment.

Reinstatement Of Certain Reporting Requirements

- Would reinstate the following report requirements, which were eliminated as a result of provisions in P.L. 104-66, the "Federal Reports Elimination and Sunset Act of 1995."
 - Trustees reports on OASDI, HI, and SMI trust funds;
 - Continuing disability reviews report; and
 - Disability preemption review report.

Clarification Of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce from a prior spouse institutionalized due to mental incompetence or similar incapacity.
- Would be effective based on applications for benefits filed after the date of enactment.

Clarification Respecting The FICA And SECA Tax Exemptions For An Individual Whose Earnings Are Subject To The Laws Of A Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage Under Divided Retirement System for Public Employees of Kentucky

- Would add 'Kentucky' to the list of 21 States in the Social Security Act permitted to use the divided retirement system procedures. Under these procedures, the State has the option of extending Social Security and Medicare coverage (or Medicare coverage only) to only those current employees who wish to be covered, with all future employees being covered automatically.
- Would be effective upon enactment.

Technical Correction Relating To Responsible Agency Head

- Would delete all references to the "Secretary of Health and Human Services" in section 1143 of the Social Security Act (with regard to issuance of Social Security statements) and replace them with the "Commissioner of Social Security."
- Would be effective upon enactment.

Technical Correction Relating To Retirement Benefits Of Ministers

- Would conform the Social Security Act to the change made to the tax provisions in the Internal Revenue Code in 1996 by excluding from coverage for Social Security benefit purposes certain benefits (including a parsonage allowance) received by a retired minister or member of a religious order.
- Would be effective for years beginning before, on or after December 31, 1994.

Technical Correction Relating To Domestic Employment

- Would remove the references to domestic employment that appear in the provisions in the law that define agricultural employment. Further, the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections Of Outdated References

- Would change the Act to correct terminology and citations respecting removal from the United States.
- Would change the Act to correct the citation with respect to the tax deduction relating to health insurance costs of self-employed individuals.
- Would change the Code to eliminate the reference to the obsolete 20-day agricultural work test.
- Would be effective upon enactment.

Technical Correction Respecting Self-Employment Income In Community Property States

- Would conform identical provisions in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States (i.e., to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who earned the income in carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated).
- Would be effective upon enactment.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

107-31

November 22, 2002

Senate Passes H.R. 4070, "Social Security Program Protection Act of 2002"

On November 18, 2002, the Senate passed (with amendments) the House-passed version of H.R. 4070, the "Social Security Program Protection Act of 2002." The bill was returned to the House, which took no further action. Below are descriptions of the bill's provisions.

Authority To Reissue Benefits Misused By Organizational Representative Payees

- Would provide for the reissuance of title II, title VIII, and title XVI benefits in case of benefit misuse by an organizational payee or an individual payee who serves 15 or more beneficiaries. Under present law, benefits can be reissued only where there was negligent failure on SSA's part to investigate or monitor the performance of the payee. In all other cases, the individual loses his or her funds unless SSA can obtain restitution of the misused benefits from the payee, or unless the individual obtains restitution from the payee through other means, such as a civil lawsuit.
- Would define "misuse of benefits" by a representative payee in titles II, VIII, and XVI. Present law provides that benefits paid to a representative payee on behalf of an individual are for the individual's "use or benefit", but does not contain a definition of misuse.
- Would provide that reissued title II, VIII, and XVI benefits would be excluded from resources for purposes of determining SSI eligibility for 9 months after the month in which the reissued benefits are received.
- Would be effective with respect to misuse determinations made on or after January 1, 1995.

Oversight Of Representative Payees

- Would require that, in order to receive a fee for serving as a title II or title XVI representative payee, nongovernmental organizational representative payees certify annually that they are both bonded and licensed, provided that licensing is available in the State. Would be effective on the first day of the thirteenth month beginning after the date of enactment.
- Would require periodic onsite review of title II, VIII, and XVI representative payees who are either individual payees serving 15 or more beneficiaries, nongovernmental fee-for-service payees, or any other organizational or governmental representative payee that serves 50 or more beneficiaries. Would be effective upon enactment.
- Would require the Commissioner, within 120 days after the end of each fiscal year, to submit to the House Ways and Means Committee and the Senate Finance Committee a report on the results of the periodic reviews conducted during the subject fiscal year.

Disqualification From Service As Representative Payee Upon Conviction Of Offenses Resulting In Imprisonment For More Than 1 Year And Upon Fugitive Felon Status

- Would provide that a person who has been convicted of an offense that resulted in imprisonment for more than 1 year could not be appointed as representative payee for title II, VIII, or XVI benefits, unless the Commissioner determines that such appointment would be appropriate, notwithstanding such conviction.
- Would provide that a person who is a fugitive felon or a parole violator could not be appointed as representative payee for title II, VIII, or XVI benefits.
- Would require, within 270 days of enactment, the Commissioner in consultation with the Inspector General to submit a report to Congress evaluating whether existing reviews and procedures relating to the qualification/disqualification of representative payees provide sufficient safeguards.
- Would be effective on the first day of the thirteenth month beginning after the date of enactment.

Fee Forfeiture In Case Of Benefit Misuse By Representative Payees

- Would provide that an organization qualified to collect a fee for serving as a title II or title XVI representative payee could not collect a fee for any month that it is determined that the organization misused all or part of the individual's benefit.
- Would be effective in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

Liability Of Representative Payees For Misused Benefits

- Would provide that the amount of benefits misused by a nongovernmental representative payee would be treated as overpayments to the representative payee, subject to current overpayment recovery authorities. Any recovered amounts not reissued to the beneficiary pursuant to section 101 of the bill would be reissued to the beneficiary or his alternative representative payee, up to the total amount misused.
- Would be effective in any case with respect to which the Commissioner makes the determination of misuse after December 31, 2002.

Authority To Redirect Delivery Of Benefit Payments When A Representative Payee Fails To Provide Required Accounting

- Would provide SSA with the authority to redirect payment of title II, VIII, and XVI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report. SSA would be required to provide proper notice prior to redirecting benefits. Under present law, there is no authority to redirect benefit payments.
- Would be effective 180 days after the date of enactment.

Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status

- Would require the Commissioner, as soon as possible but no later than 1 year after date of enactment, to issue a receipt to a disabled beneficiary each time he or she submits documentation or otherwise reports a change in earnings or work status and to continue to issue such receipts until a centralized computer file recording the date of the submission of such information is implemented.

Denial Of Title II Benefits To Fugitive Felons And Persons Fleeing Prosecution

- Would deny title II benefits to fugitive felons and individuals who are fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which a person flees, or in the case of New Jersey, is a high misdemeanor under the laws of such state, or is violating a condition of probation or parole imposed under Federal or State law.
- Would require the Commissioner to furnish (unless it would violate other Federal or State law) law enforcement officers the current address, SSN and photograph (if applicable) of any beneficiary under this title upon written request of the officer. The written request must provide sufficient identifying information for the Commissioner to uniquely identify the beneficiary, and must establish that the beneficiary is a fugitive felon or probation or parole violator, has information needed by the officer to perform his/her official duties, and that locating/ apprehending the beneficiary is within the scope of the officer's official duties.
- Would be effective 9 months after enactment.

Requirements Relating To Offers To Provide For A Fee A Product Or Service Available Without Charge From The Social Security Administration.

- Would amend section 1140 of the Social Security Act by adding a mandatory requirement that persons or companies include in their solicitations a statement that services that they provide for a fee are available directly from SSA free of charge. The statement would be required to comply with standards promulgated by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility.
- Would be effective 180 days after the date of enactment.

Refusal To Recognize Certain Individuals As Claimant Representatives

- Would authorize the Commissioner, after due notice and opportunity for hearing, to refuse to recognize a representative and disqualify a representative already recognized, who has been disbarred, suspended, or disqualified from participating in or appearing before any Federal program or agency from which he or she was previously admitted to practice in any jurisdiction.
- Would be effective upon enactment.

Penalty For Corrupt Or Forcible Interference With Administration Of The Social Security Act

- Would require a fine of not more than \$5000, imprisonment of not more than 3 years, or both, for anyone who corruptly or by force, impedes or attempts to impede or obstruct the administration of the Social Security Act. If the offense is committed only by threats of force, the penalty would be a fine of not more than \$3000, imprisonment for not more than 1 year, or both.
- Would be effective upon enactment.

Use Of Symbols, Emblems, Or Names In Reference To Social Security Or Medicare

- Would update section 1140 of the Social Security Act to include the Health Care Financing Administration's (HCFA) new name - Center for Medicare and Medicaid Services (CMS) in the names prohibited from use in specified circumstances. It would also add Death Benefits Update, Federal Benefits Information, Funeral Expenses, and Final Supplemental Plan to the terms that are prohibited from use because they may give a false impression that an item is approved or endorsed by SSA, CMS, or HHS.
- Would be effective 180 days after the date of enactment.

Disqualification From Payment During Trial Work Period Upon Conviction Of Fraudulent Concealment Of Work Activity.

- Would provide that an individual who is convicted of fraudulently concealing work activity during the trial work period (TWP) would not be entitled to receive a disability benefit for TWP months that occur prior to the conviction but within the same period of disability. If payment has already been made, he or she is liable for repayment plus restitution, fines, penalties, and assessments.
- In order to be considered to be fraudulently concealing work activity under this provision, the individual must have: (1) provided false information to SSA about his or her earnings during that period; (2) worked under another identity, including under the Social Security number of another person or a false Social Security number; or (3) taken other actions to conceal work activity with the intent to fraudulently receive benefits that he or she was not entitled to.
- Would be effective with respect to work activity performed after enactment.

Cap On Attorney Assessments

- Would cap the amount of the attorney fee assessment at the lower of 6.3% percent of the attorney fee certified or paid from the claimant's past-due benefits, or \$75. The \$75 cap would be adjusted based on the annual cost-of-living adjustments rounded down to the next lower \$10, but in no case to an amount less than \$75.
- Would apply with respect to attorney fees which are first required to be certified or paid in or after the month beginning 180 days after enactment.

Application Of Demonstration Authority Sunset Date To New Projects

- Would extend the general title II disability program demonstration project waiver authority to include projects initiated before the expiration of the 5-year period (ending December 17, 2004).
- Would be effective upon enactment.

Expansion Of Waiver Authority Available In Connection With Demonstration Projects Providing For Reductions In Disability Insurance Benefits Based On Earnings

- Would authorize the Commissioner to waive requirements of section 1148 of the Social Security Act, which pertains to the Ticket to Work and Self-Sufficiency program and the provision of rehabilitation and return-to-work services.
- Would be effective upon enactment.

Funding Of Demonstration Projects Providing For Reductions In Disability Insurance Benefits Based On Earnings

- Would change financial authorization language in the Ticket to Work and Self-Sufficiency Act to specify that benefits associated with the \$1-for-\$2 demonstration will be paid directly from the OASI, DI, HI, and SMI trust funds.
- Would be effective upon enactment.

Availability Of Federal And State Work Incentive Services To Additional Individuals

- Would allow Benefit Planning, Assistance and Outreach (BPAO) services and Protection and Advocacy (P&A) System services to be provided to those beneficiaries in section 1619(b) status, those beneficiaries receiving only a State Supplement payment, and those beneficiaries in an extended period of Medicare eligibility under title XVIII after a period of disability under title II has ended, and would allow P&A System services to include those needed to maintain employment (in addition to those needed to secure or regain it).
- Would be effective with respect to: (1) grants, cooperative agreements or contracts entered into on or after the date of enactment; and, (2) payments provided after the date of enactment.

Technical Amendment Clarifying Treatment For Certain Purposes Of Individual Work Plans Under The Ticket To Work And Self-Sufficiency Program

- Would treat an individual receiving vocational rehabilitation pursuant to an individual work plan established under the Ticket to Work program the same as an individual with an individualized work plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, thereby making employers who hire such individuals eligible for the worker opportunity tax credit.
- Would be effective as if enacted in section 505 of P.L 106-170 (i.e., applies to individuals who began work for the employer after June 30, 1999).

Elimination Of Transcript Requirement In Remand Cases Fully Favorable To The Claimant

- Would provide that SSA would not have to prepare and file a transcript with the district court after a court-ordered remand for further administrative proceedings results in a fully-favorable award of benefits.
- Would be effective with respect to final determinations issued upon remand made on or after the date of enactment.

Nonpayment Of Benefits Upon Removal From The United States

- Would end the exemption from nonpayment of benefits for aliens removed from the United States for smuggling other aliens into the United States.
- Would be effective for aliens for whom the Commissioner receives a removal notice from the Attorney General after the date of enactment.

Reinstatement Of Certain Reporting Requirements

- Would reinstate the following report requirements, which were eliminated as a result of provisions in P.L. 104-66, the "Federal Reports Elimination and Sunset Act of 1995."
 - Trustees reports on OASDI, HI, and SMI trust funds;
 - Continuing disability reviews report; and
 - Disability preeffectuation review report.

Clarification Of Definitions Regarding Certain Survivor Benefits

- Would provide a limited exception to the 9-month duration-of-marriage requirement for widow(er)'s benefits. This exception would apply in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce from a prior spouse institutionalized due to mental incompetence or similar incapacity.
- Would be effective based on applications for benefits filed after the date of enactment.

Clarification Respecting The FICA And SECA Tax Exemptions For An Individual Whose Earnings Are Subject To The Laws Of A Totalization Agreement Partner

- Would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.
- Would be effective upon enactment.

Coverage Under Divided Retirement System For Public Employees Of Kentucky

- Would add 'Kentucky' to the list of 21 States in the Social Security Act permitted to use the divided retirement system procedures. Under these procedures, the State has the option of extending Social Security and Medicare coverage (or Medicare coverage only) to only those current employees who wish to be covered, with all future employees being covered under Social Security automatically.
- Would be effective January 1, 2003.

60-Month Period of Employment Requirement For Application Of Government Pension Offset Exemption.

- Would replace the present-law "last-day of covered employment" exemption to the government pension offset (GPO) with a more stringent requirement. The provision would require that Federal, State and local government workers be covered by Social Security throughout their last 60 months of employment with the governmental entity in order to be exempt from the government pension offset.
- Would be effective for applications filed after the month of enactment. However, the provision would not apply to individuals whose last day of State or local government employment was covered by Social Security and occurs on or before June 30, 2003, provided that such period of covered employment began on or before December 31, 2002. (For those individuals who meet these requirements, the present-law "last day" test exemption would apply.)

Technical Correction Relating To Responsible Agency Head

- Would delete all references to the "Secretary of Health and Human Services" in section 1143 of the Social Security Act (with regard to issuance of Social Security statements) and replace them with the "Commissioner of Social Security."
- Would be effective upon enactment.

Technical Correction Relating To Retirement Benefits Of Ministers

- Would conform the Social Security Act to the change made to the tax provisions in the Internal Revenue Code in 1996 by excluding from coverage for Social Security benefit purposes certain benefits (including a parsonage allowance) received by a retired minister or member of a religious order.
- Would be effective for years beginning before, on or after December 31, 1994.

Technical Correction Relating To Domestic Employment

- Would remove the references to domestic employment that appear in the provisions in the law that define agricultural employment. Further, the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.
- Would be effective upon enactment.

Technical Corrections Of Outdated References

- Would change the Act to correct terminology and citations respecting removal from the United States.
- Would change the Act to correct the citation with respect to the tax deduction relating to health insurance costs of self-employed individuals.
- Would change the Code to eliminate the reference to the obsolete 20-day agricultural work test.
- Would be effective upon enactment.

Technical Correction Respecting Self-Employment Income In Community Property States

- Would conform identical provisions in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States (i.e., to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who earned the income in carrying on the trade or business or to each spouse based on their distributive share of the gross earnings, if jointly operated).
- Would be effective upon enactment.