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This compilation contains historical documents pertaining to P.L. 108-203, the “Social Security Protection Act of 2004.”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.
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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. Pomeroý, 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.

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.

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

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

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

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.
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Sec. 417. Compensation for the Social Security Advisory Board.
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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(v)) (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 bene-
ficiary's alternative representative payee an amount
equal to the amount of such benefit so misused. The
provisions of this paragraph are subject to the limita-
tions of subsection (l)(2).”.

(2) **MISUSE OF BENEFITS DEFINED.**—Section
807 of such Act (42 U.S.C. 1007) is amended by add-
ing 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 in-
serting “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

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(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 rep-
resentative 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 non-profit 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 sub-
clause (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

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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

“(II) 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)”; 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 of-
sense 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 quali-
fied organization may not collect a fee from an individ
dual for any month with respect to which the Com-
misssioner 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 MIS-
USED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the So-
cial Security Act (42 U.S.C. 405(j)) (as amended by sec-
tions 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 “para-
graph (10)”;

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(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:

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"(l) 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
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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 sub-
ject 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 CONFIRMATION, 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 So-
cial 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 stand-
ards 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 representa-
tive 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—


(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:

"(3) 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 Adminis-
tration 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 para-
graph:

"(2) COURT ORDER FOR RESTITUTION.—

"(A) IN GENERAL.—Any Federal court,
when sentencing a defendant convicted of an of-
fense under subsection (a), may order, in addi-
tion 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-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 deter-
mined 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 IN-
CENTIVE SERVICES TO ADDITIONAL INDIVID-
UALS.

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

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

“(2) DISABLED BENEFICIARY.—The term ‘dis-
able beneficiary’ means an individual—

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

“(B) who is receiving a cash payment de-
scribed in section 1616(a) of this Act or a sup-
plementary payment described in section
212(a)(3) of Public Law 93–66 (without regard
to whether such payment is paid by the Commiss-
ioner 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 pe-
nultim ate 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 pay-
ments provided after the date of the enactment of this
Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-
MENT 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 Se-
curity 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 Commis-

sioner 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 remov-
als occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-
QUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination
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”.

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(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—

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(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 in-
serting “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". 
CONGRESSIONAL RECORD—HOUSE  March 5, 2003

RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

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

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,

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

Dear Mr. Speaker:

I hereby take a leave of absence from the Committee on Armed Services due to my appointment 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.

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 Mr. Norton).
5. COMMITTEE ON RESOURCES: Mr. George Miller of California, Mr. Markey, Ms. 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. Faleomavaoga (to rank immediately after Mr. Ballance), Ms. Linda T. Sanchez, 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 gentlewoman from Connecticut?

There was no objection.

The resolution was agreed to.

AMENDMENTS TO H. RES. 124

Mr. HASTERT. 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:

Sec. 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:

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 individuals.
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 medicaid.
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 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. 501. Elimination of transcript requirement in remand cases fully favorable to the claimant.
Sec. 502. Nonpayment of benefits upon removal from the United States.
Sec. 503. Reinstatement of certain reporting requirements.
Sec. 504. Clarification of definitions regarding certain survivor benefits.
Sec. 505. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 506. Coverage under the divided retirement system for public employees in Kentucky.
Sec. 507. Compensation for the Social Security Advisory Board.
Sec. 508. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 601. Technical correction relating to responsible agency head.
Sec. 602. Technical correction relating to retirement benefits of ministers.
Sec. 603. Technical corrections relating to SECA.
Sec. 604. Technical corrections of outdated references.

TITLE V—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 701. Clarification of definitions regarding certain survivor benefits.
Sec. 702. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 703. Coverage under the divided retirement system for public employees in Kentucky.

Sec. 704. Compensation for the Social Security Advisory Board.
Sec. 705. 5-year period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 801. Technical correction relating to responsible agency head.
Sec. 802. Technical correction relating to retirement benefits of ministers.
Sec. 803. Technical corrections relating to SECA.
Sec. 804. Technical corrections of outdated references.

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.

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 individuals.
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.

Subtitle B—Miscellaneous Amendments

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

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 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. 501. Elimination of transcript requirement in remand cases fully favorable to the claimant.
Sec. 502. Nonpayment of benefits upon removal from the United States.
Sec. 503. Reinstatement of certain reporting requirements.
Sec. 504. Clarification of definitions regarding certain survivor benefits.
Sec. 505. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 506. Coverage under the divided retirement system for public employees in Kentucky.

Sec. 507. Compensation for the Social Security Advisory Board.
Sec. 508. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 601. Technical correction relating to responsible agency head.
Sec. 602. Technical correction relating to retirement benefits of ministers.
Sec. 603. Technical corrections relating to SECA.
Sec. 604. Technical corrections of outdated references.

TITLE V—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 701. Clarification of definitions regarding certain survivor benefits.
Sec. 702. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 703. Coverage under the divided retirement system for public employees in Kentucky.

Sec. 704. Compensation for the Social Security Advisory Board.
Sec. 705. 5-year period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 801. Technical correction relating to responsible agency head.
Sec. 802. Technical correction relating to retirement benefits of ministers.
Sec. 803. Technical corrections relating to SECA.
Sec. 804. Technical corrections of outdated references.
(1) REISSUANCE OF BENEFITS—Section 1631(a)(2)(E) of the Social Security Act (42 U.S.C. 1382c(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: ‘‘In any case in which a representative payee to which this title VIII, or any combination of such titles:—

(i) is not an individual (regardless of whether it is a ‘‘qualified organization’’ within the meaning of paragraph (4)(B)); 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 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 to the payee that—

(a) in paragraph (12), by striking ‘‘at the end’’; and

(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 part thereof which 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, title XVI, or any combination of such titles;

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) 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 part thereof which 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, title XVI, or any combination of such titles;

(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 paragraph (7)(B).

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) 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 part thereof which 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, title XVI, or any combination of such titles;

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1382c(a)(2)(A)) is amended by adding at the end the following new paragraph:

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1382c(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: ‘‘In any case in which a representative payee to which this title VIII, or any combination of such titles:—

(i) is not an individual (regardless of whether it is a ‘‘qualified organization’’ within the meaning of paragraph (4)(B)); 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 VIII, title XVI, 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 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 1631(a)(2) of such Act (42 U.S.C. 1382c(a)(2)) 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 part thereof which 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, title XVI, or any combination of such titles;

(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 paragraph (7)(B).

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1382c(a)(2)(A)) is amended by adding at the end the following new paragraph:

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1382c(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: ‘‘In any case in which a representative payee to which this title VIII, or any combination of such titles:—

(i) is not an individual (regardless of whether it is a ‘‘qualified organization’’ within the meaning of paragraph (4)(B)); 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 VIII, title XVI, 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 such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).

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

(1) REISSUANCE OF BENEFITS.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended by adding at the end the following new paragraph:}

(1) REISSUANCE OF BENEFITS.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended—

(a) by inserting at the end 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 part thereof which 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, title XVI, or any combination of such titles;

(b) 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 part thereof which 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, title XVI, or any combination of such titles;
(ii) that serves in that capacity with respect to 50 or more such individuals; and

"(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 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 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 exercise of official duties, 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, including any criminal penalties imposed; and

"(E) 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, including any criminal penalties imposed; and

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

SECTION 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE.—In addition to the provisions of section 1631 (a) (2) in any case in which—

"(1) in subparagraph (B)(i)—

"(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) the Commissioner shall conduct upon receipt of an allegation of misuse of funds, including any criminal penalties imposed; and

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

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

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

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

"(7) 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;

"(B) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (i) of this paragraph)

"(C) 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;

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

"(E) any other such information as the Commissioner deems appropriate;

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

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

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

SECTION 104. REPORTS

SEC. 104. REPORTS.—Each such report shall describe in detail any problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

"(1) the number of such reviews;

"(2) the results of such reviews;

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

"(4) 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, including the name of such person and the reason for the change and why.

"(5) any other such information as the Commissioner deems appropriate;

"(6) such other information as the Commissioner deems appropriate;

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

"(8) Such person is described in section 202(x)(1)(A)(iv).

"(9) such person has information that is necessary for the officer to conduct the official duties,

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

"(11) such person is described in subparagraph (B)(ii) of section 1631(a)(2)(G), and inserting "section 1631(a)(2)(G)" in place of "section 1631(a)(2)(G)"; and

"(12) such person is described in subparagraph (B)(ii) of section 1631(a)(2)(G), and inserting "section 1631(a)(2)(G)" in place of "section 1631(a)(2)(G)".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) in subparagraph (B)(i)—

"(A) by striking "and" at the end of sub-

"(B) by striking "or" at the end of sub-

"(C) by striking "or" at the end of sub-

"(D) by striking "or" at the end of sub-

"(E) by striking "or" at the end of sub-

"(F) by striking "or" at the end of sub-

"(G) by striking "or" at the end of sub-

"(H) by striking "or" at the end of sub-

"(I) by striking "or" at the end of sub-

"(J) by striking "or" at the end of sub-

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"(Q) by striking "or" at the end of sub-

"(R) by striking "or" at the end of sub-

"(S) by striking "or" at the end of sub-

"(T) by striking "or" at the end of sub-

"(U) by striking "or" at the end of sub-

"(V) by striking "or" at the end of sub-

"(W) by striking "or" at the end of sub-

"(X) by striking "or" at the end of sub-

"(Y) by striking "or" at the end of sub-

"(Z) by striking "or" at the end of sub-

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

"(1) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law of Federal, State, or local law enforcement official, 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 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 "parasubparagraph (B)(i)(IV), and inserting "paragraph (B)(i)(IV)," to the following new subparagraphs:

"(A) by redesignating subparagraph (D) as subparagraph (F);

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

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

"(2) in subsection (b), by adding at the end of 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 of Federal, State, or local law enforcement official, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigat-
(B) such person has information that is necessary for the officer to conduct the officer’s official duties;

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

(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;

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

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

(1) by striking “and” and inserting “or” at the end of subclause (III); and

(2) by redesignating subclause (IV) as subclause (V).

(d) 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 811(e)(4)(A) and inserting the following:

(III) the location or apprehension of such person;

(VI) obtain information concerning any other provision of Federal or State law to establish the unique identity of such person; and

(VII) the location or apprehension of such person.

(e) by striking clause (ii)(IV) and inserting the following:

(ii) the location or apprehension of such person,

(f) TITLE VIII AMENDMENT.—Subsection (b)(2)(C) of section 1611(e)(4)(A) of the Social Security Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended by redesignating paragraph (5) and inserting the following:

(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee 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 Act to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments.

(2) LIMITATION.—The total of the amount certified for payment to such individual or such individual’s alternative representative payee under paragraph (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."

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

(g) by striking paragraph “(i)” and inserting paragraph “(g)(1):”; and

(h) by striking paragraph “(ii)” and inserting paragraph “(g)(2):”.

4. SEC. 105. LIABILITY FOR 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)) is amended—

(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 (8)(A)(i), by striking “paragraph (9)” and inserting “paragraph (10)”;

(4) by inserting after paragraph (8) 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 Act to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments.

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (42 U.S.C. 1383(a)(2)) is amended further by adding at the end the following new subsection:

(2) LIABILITY FOR MISUSED AMOUNTS.—(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee 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 Act 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 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)(ii)(I), by striking “section 265(II)” and inserting “section 1602(4)(A)”;

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

“(H) 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 treated as a misused part of the individual’s benefit for purposes of subsection (I).

(II) 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 treated as a misused part of the individual’s benefit for purposes of subsection (I).”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect not later than 270 days after the date of the enactment of this Act.
"(ii) The total of the amount paid to such individual or such individual’s alternative representative payee pursuant to the order of the Commissioner under clause (I) or (II) of subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual or such alternative representative payee as described in subparagraph (D).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuses 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(l)(3)) 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 paragraph (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 (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

‘‘(6) 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 clause (I), (II), or (III) of subparagraph (A) or (B) of section 1631(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is required to submit a report, receipt, or document as required under such section, the Commissioner of Social Security may, after furnishing notice to the person and the individual entitled to 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 payment.’’

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1385(a)(2)(C)) is amended by adding at the end the following new clause:

‘‘(X) by inserting ‘‘or each receipt of such benefits or payments while withholding disclosure of such fact’’ after ‘‘such statement or representation’’ in the first sentence; and

(B) by inserting ‘‘or because of such withholding of disclosure of a material fact’’ after ‘‘because of 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 1129(a) of such Act (42 U.S.C. 1320a-8(a)) is amended—

(1) in the heading, by striking ‘‘Prisoners’’ and all that follows and inserting the following:

‘‘Prisoners, Certain Other Inmates of Public Institutions, Fugitives, Probationers, and Parolees’’;

(2) in paragraph (1)(A)(i) by striking ‘‘as of the end’’ and inserting ‘‘as of the end’’;

and

(3) 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 which he or she is a fugitive, 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 is a misdemeanor under the laws of the 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, for good cause shown, may, for good cause shown, pay such withheld benefits to the individual."

and

(b) 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 official, on 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—

"(II) 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

"(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 on which 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)), 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 made a written notice that—

"(i) explains that the product or service is available without charge from the Social Security Administration,

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its place of publication, 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 application or documents in support of an individual for achieving self-support under title XVI; and

"(b) EFFECTIVE DATE. The amendments made by this section shall apply with respect 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 receiving a fee in excess of the amount.
"(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

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

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

"(b) 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, 3636, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection, including such orders concerning such amounts the Social Security Administration shall be considered the victim.

(C) 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 thereof.

(D) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 384(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

"(A) amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 801(1), or 1632(b) shall be paid by subparagraph (B) before the application of the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except that such adjustment shall be based on the higher of $75 or the previously reduced 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.

(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 or on or after the first day of the first month beginning after the enactment of this Act.

SECTION 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1633(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 "statement of benefits" and inserting "statement of benefits"; and

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subparagraphs (a)(4) and (d)(4) thereof)"; and

(C) by striking "(paragraph (2) thereof)" and inserting "such section";

(2) in subparagraph (A)(i), by striking "in subparagraphs (A)(1)(D)(i) and (D)(i) of subsection (a)(2)" and inserting "in subparagraphs (A)(1)(D)(i) and (D)(i) of subsection (a)(2)"; and

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B) of the Social Security Act, the phrase "account" for the phrase "subparagraph (g) or (h) of section 223";

(iii) by substituting, in subsection (a)(2)(C)(i) of the Social Security Act, the phrase "pursuant to the first required to be certified or paid under this Act" for the phrase "certify the amount of";

(iv) by substituting, in subsection (b)(1)(B) of the Social Security Act, the phrase "reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a) for the term ‘determined by the Federal Disability Insurance Trust Fund, and as determined by the Federal Disability Insurance Trust Fund, and as determined before any applicable reduction under section 1127(a)’; and

(v) in subsection (b)(1)(B), the phrase ‘computed in accordance with’ for the phrase ‘certify the amount of’; and

(vi) the amount of any reduction in benefits under title II and title XVI pursuant to section 1127(a).

(b) Payment to the Attorney.—Subparagraph (C) of section 206 of the Social Security Act (42 U.S.C. 406(d)(2)) is amended—

(1) by inserting "so much of the maximum fee as does 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 sentence: "In the case of any calendar year beginning after the amendments made by section 206 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except that 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. In the case of any calendar year beginning after the amendments made by section 206 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including any previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except that such adjustment shall not exceed $75.

(c) 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 or on or after the first day of the first month beginning after the date of the enactment of this Act.
are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.').

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Such amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid on or before the date of enactment of this Act.

(2) STATE STUDY.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits under section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to an agreement established under title II of such Act.

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS AND REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 309 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 expansion of title II 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 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 titles.

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES AND 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-28(c)(2)) is amended to read as follows:

(‘‘2. DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—

(A) who is entitled to benefits under title II of such Act or a supplemental payment described in section 221(a)(1) of Public Law 93-66—

(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplemental payment described in section 212(a)(1) of Public Law 93-66—

(‘‘C) who, pursuant to section 1615(b) of this Act, is considered to be receiving benefits under title XVI of such Act; or

(D) who is entitled to benefits under part A of title XIX of such Act or a supplemental payment described in 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 enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1149(g)(2) of such Act (42 U.S.C. 1320b-28(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; or

(B) who is entitled to benefits under part A of title XIX of such Act or a supplemental payment described in section 1616(a) of this Act or a supplemental payment described in section 226(b) of this Act; or

(C) who, pursuant to section 1615(b) of this Act, is considered to be receiving benefits under title XVI of such Act; or

(D) who is entitled to benefits under part A of title XVIII of such Act by reason of the penultimate sentence of section 226(b) of such Act.’’

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GainFUL EMPLOYMENT.—Section 1150(b) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking ‘‘secure or regain’’ and inserting ‘‘secure’’.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of 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 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended by adding at the end and below subparagraph (E), the following new paragraph:

‘‘An individual work plan established pursuant to this subsection shall be treated, for purposes of section 516(b)(1)(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 1998.’’

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 506 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 REMEDIAL 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 does not make a decision fully favorable to the individual, a transcript’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to determinations issued (upon request) 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)) are each amended by striking ‘‘or (1)’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals with respect to whom the Commissioner does not make a decision fully favorable to the individual, a transcript.

Subtitle C—Reimbursement of Certain Report- ing Requirements

SEC. 413. REIMBURSEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1114 note) shall apply to any report required to be submitted under any of the following provisions of law:

(I) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(II) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395l(b)(2)).

(III) Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(IV) Section 221(c)(3) of the Social Security Act (42 U.S.C. 422(c)(3)).

(V) Section 221(d)(3) of the Social Security Act (42 U.S.C. 422(d)(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—
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by redesigning subclauses (A) through (C) of clause (B), as subclauses (I) through (iii), respectively;

(2) by redesigning clauses (I) through (6) as clauses (A) through (F), respectively;

(3) in clause (D), by inserting "except as provided in paragraph (2), before "she was married'';

(4) by inserting "before" in clause (E), as redesignated; and

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

"(f) The requirements of paragraph (I)(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, or 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 redesigning subclauses (A) through (C) of clause (B), as subclauses (I) through (iii), respectively;

(2) by redesigning clauses (I) 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 "(I)'' after "(g)'' and

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

"(f) The requirements of paragraph (I)(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, or 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 (b) or clause (e) of subsection (g)''.

(d) 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 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. CONFORMING AMENDMENT TO SOCIAL SECURITY ACT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) In GENERAL.—Section 218(d)(8)(C) of the Social Security Act (42 U.S.C. 418(d)(8)(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.—(A) A member of the Board shall, for each day (excluding 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 for regular purposes 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(d)(4)(A) of the Social Security Act (42 U.S.C. 402(d)(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) WIDOW'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 October, 1994.

SEC. 419. AMENDMENT TO CONGRESSIONAL RECORD.—The amendment made by section 3121(g) of the Internal Revenue Code of 1986 amended by striking "Farmers Home Administration (F.H.A.)'' and inserting "United States Department of Agriculture (F.H.A.)''

SEC. 420. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

(a) In GENERAL.—Section 1143 of the Social Security Act (42 U.S.C. 1320(b)(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''

(b) TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) In GENERAL.—Section 211(a) of the Social Security Act (42 U.S.C. 411(a)) is amended by inserting "and" after "who'' and inserting "in the country''.

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

SEC. 421. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(g)(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 subsection (2)(B)(i)'' and adding "on a farm operated for profit''.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act are each amended by striking "or is domestic service in a private home of the employer''

SEC. 422. 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 (I) (in the matter preceding paragraph (A)) of section 241(a)(other than under paragraph (1)(C) thereof) and inserting "under section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227 (other than paragraph (1)(C) thereof)'';

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227 (other than paragraph (1)(C) thereof)'';

(5) in paragraph (3)—
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(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237a(a)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D) of section 237a(a)"; and

(c) in the heading, by striking "Deportation" and inserting "Removal".

(c) CORRECTION OF CITATION RESPECTING THE TIME 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 19(h)(1)" and inserting "sections 19(h)(1) and 19(h)(2)".

(c) ELIMINATION OF REFERENCE TO OBSOLETENESS OF 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) SOCIETY SECURITY ACT 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 attributable to such trade or business shall be treated as the gross income and deductions attributable to such trade or business, and 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".

(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 attributable to such trade or business shall be treated as the gross income and deductions attributable to such trade or business, and if such trade or business is jointly operated, 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 attributable to 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; 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 California (Mr. MATSUI).

Mr. MATSUI. 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 were paid last year to about 50 million retired and disabled workers and their families and SSI recipients. These costs represent close to one-fourth of all Federal outlays last year. By the time the 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 Social Security and supplemental security income benefits were paid last year. More importantly, as baby boomers approach retirement age, so will Social Security's and SSI's combined benefits.

Mr. Speaker, 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 persons who misuse Social Security's and Supplemental Security Income's resources through new civil monetary penalties, and prevent people from misrepresenting themselves as they provide Social Security-related services.

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 through the attorney or other representative payee. Two, the bill strengthens the law to protect the recipient, the beneficiary.

Second, it provides anti-fraud provisions in the legislation, including denying SSI benefits to fugitive felons. Finally, it contains several other provisions aimed at correcting inequities in the law regarding benefit coverage and reducing administrative costs. By expanding eligibility for the Work Opportunity Tax Credit.

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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 that the bill 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, 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’. I certainly 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 a 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 thanks to this 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 to any care other than the use that the beneficiary or authorizes the Commissioner to define “use and benefit” in this legislation.

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. This definition would incidentally aid the payee or another individual. For instance, cases in which a representative payee uses the benefits entrusted to his or her care to any care other than the use and benefit of the beneficiary, and authorizes the Commissioner to define “use and benefit” in this legislation.

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There have been a number of highly publicized cases involving organizational representative payees that have misused large sums of money on behalf of the Social Security and Supplemental Security Income (SSI) beneficiaries they represented. In most instances, these organizations operated as companies, not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went un-detected because the losses had been stolen. If the Social Security Administration is not shown to be negligent for failing to investigate and monitor the payee, affected beneficiaries will be forced to pay the price. In crafting a regulatory definition for “use and benefit” in regulation, the Commissioner to define “use and benefit” in regulation.

In crafting a regulatory definition for “use and benefit,” the Commissioner is required to submit an annual report to Congress, custodians and other other 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, the law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

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any month involving benefit misuse by a rep-
resentative payee as determined by the Com-
missioner or a court of competent jurisdiction
after 180 days after the date of enact-
ment.

PAYEES

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 payees to continue claiming re-
warding the payee for violating his or her re-
sponsibility to use the benefits for the indi-
vidual'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 address benefits mis-
used by a representative payee.

EXPLANATION OF PROVISION

The new provision treats benefits misused by
any representative payee (except a fed-
eral or state local government agency) as an
overpayment to the representative payee, thus
subjecting the representative payee to the same
current overpayment recovery procedures.
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 representa-
tive payee, up to the total amount misused.
This provision applies to violations committed
after the date of enactment.

REASON FOR CHANGE

Although the SSA has been provided with
expanded authority to recover overpay-
ments, these tools cannot be used to recoup
benefits misused by a representative payee. Treat-
ing misuse of benefits as overpayments to
the representative payee would provide the SSA
with additional means for recovering overpay-
ments.

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 represent-
ative payees to submit accounting re-
ports to the Commissioner of Social Security
regarding how a beneficiary's benefit pay-
ments were used. A report is required at
least annually, but may be required by the
Commissioner at any time if the Commis-
sioner has reason to believe the representa-
tive payee is misusing the benefits.

EXPLANATION OF PROVISION

The new provision authorizes the Commis-
sioner of Social Security to require a rep-
resentative payee to receive any benefits
under Title II, VIII, or XVI in person at a
field office. This provision requires multiple
representative payees (or a court of
competent jurisdiction) to make a deter-
mination of misuse after 180 days after the
date of enactment.

EXPLANATION OF PROVISION

By including the phrase "or otherwise
withholds disclosure of", in section 1129 and
1129A, civil monetary penalties and assess-
ments 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 per-
son knows or should know that the facts are
false or 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 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 sub-
ject to civil monetary penalties and assessments under the current law, an individual must have made a state-
mement that is false or misleading. Examples of the types of
benefits that the person knows or should
know omission of a material fact or was
false or misleading.

Section 1129A, 42 U.S.C. 1320a-3, provides
administrative procedures for imposing pen-
alties of nonpayment of title II and XVI ben-
efits (6 months for the first violation) for
making false or misleading statements.

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the monthly benefit amount. This notice would serve as a reminder to the Commissioner to pay benefits. 

**REASON FOR CHANGE**

Witnesses have testified before the Social Security Subcommitteee of the House Ways and Means Committee that the SSA currently have an effective system in place for processing and recording Title II and Title XVI disability beneficiaries' reports of changes in circumstances, issuing receipts to disabled beneficiaries who make such reports would provide them with proof that they had properly fulfilled their obligations to report such 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 their 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 (SSI) benefits, are used to aid flight from justice or other crime. The Congressional Budget Office has estimated that 200,000 individuals are fleeing to avoid 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.  

**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 services or products. For example, Section 1140 gives 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 authorizes the Commissioner to review the agency's implementation of this provision.  

**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.
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 the 60 month period without any loss of benefits. Presently, section 222(c) of the Social Security Act does not prohibit a person convicted of fraudulently concealing work activity from receiving disability benefits under Title II from receiving any benefits from March 5, 2003, or within a trial work period month and would be liable for repayment of those benefits, in addition to any resulting civil penalties, fines or assessments otherwise due.

Under this provision, concealing work activity is considered to be fraudulent if the individual (1) presented 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 and any amount remaining from the trial work period is not available to the SSA for federal court restitution orders. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government. This provision is effective with respect to violations occurring on or after the date of enactment.

Examination of Provision

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 and any amount remaining from the trial work period is not available to the SSA for federal court restitution orders. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government. This provision is effective with respect to violations occurring on or after the date of enactment.

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for Title XVI claims. It would also authorize the SSA to charge a processing assessment of up to half 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 evaluating the demonstration projects and to report its findings to Congress.

Reason for Change

Withholding the attorney fee payments from the SSI benefit claim would improve SSI applicants' access to representation, as more attorneys could be willing to represent claimants if they are guaranteed payment.

Payment of States first and attorneys second would ensure that States providing interim assistance are not likely to 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 2000

Section 491. Application of Demonstration Authority Sunset Date to New Projects

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 Sec

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 first five years after enactment of the Ticket to Work Act). This provision is effective upon enactment.
The amendment to section 1148, which affects the BPAO program, is effective with respect to grants, cooperative agreements or contracts entered into on or after the date of enactment. For purposes of this section, which affect the PABSS program, are effective for payments provided after the date of the enactment.

REASON FOR CHANCE

The Committee on Ways and Means recognizes that Social Security beneficiaries and non-citizens who are disabled and who do not have the opportunity to work because of barriers and disincentives to becoming employed are not effective in the workforce. The Social Security Act of 1995 directs the Ticket to Work Act to encourage disabled individuals to work. The definition of ‘disabled beneficiary’ under section 1148(b) of the Act does not include several groups of beneficiaries, including individuals who are no longer eligible forSSI 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. Therefore, the current PABSS assistance is available to all of these disabled beneficiaries regardless of Title II or SSI 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.

The Committee on Ways and Means believes that PABSS and BPAO services should be available to all of these disabled beneficiaries regardless of Title II or SSI 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. The intent of the PABSS program is to maintain employment would be subject to re-evaluation of his eligibility. For purposes of 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, other support services. These employment networks will help 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 employers 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 ‘ticket’ to services for disabled individuals throughout the process of initially securing employment, the course of their being employed and, if needed, their efforts to maintain 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 602 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 and non-citizens with disabilities face obstacles in securing, maintaining, or regaining work.

Section 405. Technical Amendment Clarifying Definitions of "widower" and "widow" in Section 216 of the Social Security Act

The provision redefines the definitions of "widow" and "widower" in Section 216 of the Social Security Act to conform to the "wage base" provisions of the Internal Revenue Code. Specifically, it provides that, for purposes of Section 216, "widower" means a man who is a surviving spouse of a deceased individual who has earned wages subject to social security tax, and "widow" means a woman who is a surviving spouse of a deceased individual who has earned wages subject to social security tax.

EXPLANATION OF PROVISION

The provision applies to all wages paid to newly hired employees during the first year of employment. The maximum credit per employee is $2,400, but the credit may be less depending on the employer's tax bracket. A lesser credit will be allowed to employers whose employees 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, other support services. These employment networks will help 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 employers 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 ‘ticket’ to services for disabled beneficiaries regardless of Title II or SSI 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.

The Committee on Ways and Means believes that PABSS and BPAO services should be available to all of these disabled beneficiaries regardless of Title II or SSI 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. The intent of the PABSS program is to maintain employment would be subject to re-evaluation of his eligibility. For purposes of 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, other support services. These employment networks will help prevent these beneficiaries from returning to the federal cash benefit rolls and help them to reach their optimum level of employment.
married to the deceased spouse for at least nine months before the 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 deceased spouse was not 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 first day of the first month 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

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 totalization agreements 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

Under Section 218 of the Social Security Act, a State may choose whether or not its State or local government employees who are covered by a public pension plan are, with 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. That agreement consists 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, 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 in the referendum may individually determine whether they want Social Security coverage. If, after the referendum, one group 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 system.

EXPLANATION OF PROVISION

The new provision permits the state of Kentucky to join the 21 other states in being able to operate a divided retirement system. This provision 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. A new provision clarifies that employees hired after the referendum, will not be covered by Social Security. If the majority vote is in favor of Social Security coverage, employees hired after the referendum will continue to participate exclusively in the public pension plan.

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, even if the worker is not legally subject to the laws of that country. For example, an individual who worked in a country not 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

Under Section 218 of the Social Security Act, a State may choose whether or not its State or local government employees who are covered by a public pension plan are, with 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. That agreement consists 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, 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. If, after the referendum, one group 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 system.

EXPLANATION OF PROVISION

The new provision permits the state of Kentucky to join the 21 other states in being able to operate a divided retirement system. This provision 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. A new provision clarifies that employees hired after the referendum, will not be covered by Social Security. If the majority vote is in favor of Social Security coverage, employees hired after the referendum will continue to participate exclusively in the public pension plan.

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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, the time ran until their last day of employment.

**REASON FOR CHANGE**

In August 2002, the GAO published a report titled "Social Security Administration: Revisions 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, the GAO investigated the 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 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 also stated that current usage of last day exemption could cost the Social Security Trust funds $145 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 is based on recommendations provided by the GAO to address potential abuse of the exemption. A provision addressing the last-day exemption was also included in President Bush's budget request for 2004.

**EXPLANATION OF PROVISION**

This new provision makes a technical correction to prohibit the use of 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. 103-238) made the Social Security Administration an independent agency separate from the Department of Health and Human Services. This provision updates Section 1143 to reflect this change.

**Section 422. Technical Correction Relating to Retirement Benefits of Ministers**

**PRESENT LAW**

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 provision is effective for years beginning before, on, or after December 31, 1994. This section is the same as the last day exemption provided by the Internal Revenue Code 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 Employees**

**PRESENT LAW**

Present law is ambiguous concerning the Social Security coverage and tax treatment of domestic service performed on a farm. Domestic employees on a farm appear to be subject to two separate coverage thresholds (one for agricultural labor and another for domestic employment).

**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 1991, 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."

**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 and 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 deemed to be the husband's unless the wife exercises substantially all of the management and control of the trade or business.

**LETTERS OF SUPPORT RECEIVED FOR H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003**

**DISABILITY ADVOCATES**


**LAW ENFORCEMENT**


**WASHINGTON, DC, MARCH 5, 2003**

H. R. 743, the "Social Security Protection Act of 2003," was introduced by Representative Matsui on behalf of AARP and its 35 million members. We are pleased to commend you and Representative Shaw for introducing H.R. 743, the "Social Security Program Protection Act of 2003." This innovative legislation is important to claimants, beneficiaries and the overall Social Security program. We believe the legislation would provide benefits against abuses by representative payees. For many years, AARP recruited volunteers as representative payees so that Social Security beneficiaries who
needed to protect people with severe disabilities. These programs were quite successful but were limited in scope.

AARP has had a longstanding interest in curtailing degrading 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. It would also send a 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, Ph.D.,
Director, Federal Affairs.

NAMI

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 54 million children and adults who are members or friends, who receive the benefits of NAMI, I am writing to express our support for the 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 system to protect the interests of vulnerable beneficiaries of Social Security's disability income and support programs.

H.R. 743 is the product of near universal bipartisan support. This legislation contains many longstanding 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 H.R. 743 will help ensure that the performance of the SSI and SSDI programs is as commensurate with the nation's interests as it is with the interests of vulnerable beneficiaries of Social Security's disability income and support programs.

H.R. 743 is an 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 system to protect the interests of vulnerable beneficiaries of Social Security's disability income and support programs.

H.R. 743 contains important provisions strengthening SSA's ability to address abuses by representative payees. The provisions would:

- Require non-governmental fee-for-services 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 misuse benefits as "overpayments" to the representative payee, thereby triggering SSA's authority to recover the money through tax refund offsets, referral to collection agencies, or, for non-tax debtors, credit bureaus, and offset of any future federal benefits/payments; and
- Require that 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 beneficiaries who need assistance in handling their cases as they move through the extremely complex disability determination and appeals process.

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the $4 million children and adults with disabilities and their families living in the United States. The CCD Social Security and Medicare Benefits Improvement Task Forces focus on disability policy issues in the Title XVI Supplemental Security Income program and the Title II disability programs. With your leadership, we expect H.R. 743 to receive a House vote and final enactment of H.R. 743.

Sincerely,

David Certher,
Executive Director.

The Arc and UCP Public Policy Collaborative.

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 Gov't.

PAUL SEIFERT
International Association of Psychosocial Rehabilitation Services.

NATIONAL ORGANIZATION OF SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES

Hon. E. CLAY SHAW,
Chairman, 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 that 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 represent themselves in their appeal process.
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


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 89% 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 regard to 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. We thank you for your work on this important matter. Sincerely,

RONALD G. BERNOUSKI, President
GRAND LODGE
FRATERNAL ORDER OF POLICE

Hon. RON LEWIS,
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong support for H.R. 134. We believe that this bill would add Kentucky to the list of States permitted to operate a separate retirement system for public employees.

As I am sure you are aware that last November our community voted to unite Jefferson County and the City of Louisville. We have established a newly formed entity known as Greater Louisville. This merger was effective January 1st 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 every one.

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 allow the police officers in Greater Louisville to decide for themselves whether or not they want to participate in Social Security or remain in their traditional retirement plan. While the merger 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 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, President
FRATERNAL ORDER OF POLICE
LOUISVILLE LODGE 6

Hon. RON LEWIS,
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the members of the 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. We have established a newly formed entity known as Greater Louisville. This merger was effective January 1st 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 every one.

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 a “divided retirement system.” This will allow the 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 believe 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. BATTI,
Chief of Police.

OFFICE OF THE SHERIFF
WAYNE COUNTY

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 #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 I6 SS1 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.

CHARTERS 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 to show my support for the above bill. I believe that it would be in the best interest of the American public to give our Law Enforcement efforts would be greatly enhanced by its passage.

Sincerely,

JAMES M. HORVATH,
Chief.

THE BOROUGH OF CHURCHILL
POLICE DEPARTMENT

To: Congressman E. Clay Shaw Jr.
Subject: Endorsement for H.R. 743.

I am writing to show support for the above bill. I believe that it would be in the best interest of the American public to give law enforcement efforts a big boost. I believe that it will help in the investigation of Terrorists.

RICHARD H. JAMES,
Chief of Police.

BRECKNOW 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 103 of
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. 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 Act of 2002 for the very reason

that we crack down on fraud and abuse, specifically the abuse of Social Security payments to prisoners.

We have also stripped 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. MCKEON), another valued 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.

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 want to protect those who would take advantage of fraud and 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 here to restore those 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 Act 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. 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 associations have 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 nonSocial 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 play those games, to those who are working in our school districts.
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 personnel. 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 spousal or survivor benefit 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 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 phony charges from the right, such as, 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 desired benefit. 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 other colleagues.

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 she would 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 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 bill affects not only high income individuals, but 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, social Security spousal or survivor benefits, civil monetary penalties will result. These changes are important and necessary.

Another provision deserving mention. Mr. Speaker, it 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 helped our barriers that prevented countless employable individuals with disabilities from rejoining the workforce.

Yet now we need to make some technical corrections. For instance, one of the things in the original Ticket to Work Act was a demonstration project that 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 employable networks will accept these benefits that are participating, in this $1 for $2 offset demonstration project. So these are worthy changes.

Let me quickly address the issue of money. The Office of Management and Budget, in 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 close the loophole 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 from 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, 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, thereby making them ineligible for many other plans that pay 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, we must offer opportunities and 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 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. LAMPSON).

Mr. LAMPSON. 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 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. Then, I told her, we 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. I request 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 in support of repealing 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 186 Members in favor of repealing the offset. 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 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 mA bonus 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. I hope that this 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 any other system, 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 in 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. I request the Committee on Ways and Means with the understanding that the GPO should be repealed.
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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 the retirement plan who live 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, and the wife is paying into Social Security, one dies, the survivor either gets her earned benefit or the survivor benefit, whichever is greater.

But in Texas where you have one spouse paying 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, fire-fighters 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.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman 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 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 Committee.

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 it is time 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 testimonies on behalf of the survivor 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 pension plans who 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 her 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 spouse’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 needed it the most. It could take it 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 teach 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 your retirement, 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 provisions 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. GILCHREST). The gentleman from Texas is recognized for 5½ minutes.

Mr. DOGGETT. Mr. Speaker, I must begin by saying that I finalized the last part 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 scheduled 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 cast their eyes to the future, who themselves have struggled through 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 that has passed, and what has been the response of the nation's teachers? 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 tucked in a little provision 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, including myself, 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 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 hours 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. The Social Security Administration provides no 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 $380 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 by 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 in the Armed Forces Fairness Act, for 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 was complicated 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 books and KTAS 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 this 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, including Republicans 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 up paper ticker that says, "Don't mess with Texas teachers. Vote 'no' on this bad bill."

Mr. SHAW. Mr. Speaker, I would remind the House, even though we have been talking about the Texas situation over most of the time that has been devoted 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 allows 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 loophole is put into place, just simply by treating Texas the like the rest of the country.

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.

Mr. Speaker, 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 sponsoring a bill (H.R. 887) which would assure that the offset will not be more than 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 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 our classrooms 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. These 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 prepared to 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.

Mrs. 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.

The legislation increases 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 close by making a 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 numerous other professions are available.

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 provide 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 the dollar and 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 people are 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 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 108th Congress.

This bill helps future generations from receiving benefits. The CBO estimates we will pay over $500 million to future generations over the next 10 years.

The Social Security Administration appoints representatives to the Social Security Administration 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 the House 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.

Mr. Speaker, this bill stops fugitive felons from receiving Social Security benefits. However, it is unfortunate that the House and Senate, when it passed the House unanimously last year, failed to pass the Ticket to Work law to help disabled individuals to enter the workforce. 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. H.R. 743 would allow 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 and controversial provision that takes 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 youth. 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 the 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 deserve 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 $654 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 dividend payment 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 reduce costs, improve service, and provide efficiency. 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 hazard-duty workers employed by contractors and municipalities. It is important to remember that Social Security and Medicare are federal programs designed to provide financial security for workers and their families. Any changes to these programs should be carefully considered to ensure that they continue to meet the needs of workers and their families.

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.

Mr. DOGGERTY. 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.

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days within which to revise and extend their remarks on H.R. 743.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

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.

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days within which to revise and extend their remarks on H.R. 743.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

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.

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:

TITLE I—TARIFF PROVISIONS
Sec. 1001. Reference; expired provisions.
Subtitle A—Temporary Duty Suspensions and Reductions
Sec. 1101. Bytolyten diisocyanate (TODI).
Sec. 1102. 2-Methylimidazole.
Sec. 1103. Hydroxyamine 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 296, and acid red 301.
Sec. 1113. VAT red 13.
Sec. 1114. 5-Methylpyridine-2,3-dicarbonylic acid.
Sec. 1115. 5-Methylpyridine-2,3-dicarbonylic acid diethylster.
Sec. 1116. Ethylpyridine dicarbonylic acid.
Sec. 1117. (e) (3S)-Dimethylphenoxy methyl-2-methoxy-imino-n-methylphénylacetamide.
Sec. 1118. 2-Chloro-N-(4-chlorophenyl)-2-yl-acetamide.
Sec. 1119. Vincolizol.
Sec. 1120. Dazomet.
Sec. 1121. Pyraclostrobin.
Sec. 1122. 1-Benzenedicarboxylic acid, 5-sulfol-1,3-dimethyl ester sodium salt.
Sec. 1123. Saccharose.
Sec. 1124. Buctril.
Sec. 1125. (2-Benzothiazolothio) butanedioic acid.
Sec. 1126. 60-70 Percent amine salt of 2-benz-thiazolothio cyclic succinic acid in solvent.
Sec. 1127. 4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholone (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. Cylohexanepropanoic acid, 2-propenyl ester.
Sec. 1135. Neohesperidin (2-phenylbenzimidazole-5-sulfonic acid).
Sec. 1136. Sodium methylate powder (Na methyleate powder).
Sec. 1137. Glibananone (cyclohexadec-8-en-1-one).
Sec. 1138. Methyl acetoephene-para (methyl).
Sec. 1139. Majantol (2,2-dimethyl-3-(3-methylphenyl)propanol).
Sec. 1140. Neohelioan MA (methyl anthranilate).
Sec. 1141. Allys isosulfoxycanone.
Sec. 1142. Frescolat.
Sec. 1143. Thymol (alpha-cymophenol).
Sec. 1144. Benzyl carbazate.
Sec. 1145. Esfenvaleteral technical.
Sec. 1146. Avant and steward.
Sec. 1147. Hellium.
Sec. 1148. Ethyl pyruvate.
Sec. 1149. Deltamethrin.
Sec. 1150. Asulam sodium salt.
Sec. 1151. Talotemrin.
Sec. 1152. N-Phenyl-N,N-(1,2,3-thiadiazol-5-yl)-urea.
Sec. 1153. Benzenpropanoic acid, alpha-2-dichloro-5-(4-difluoromethyl)-4,5-di-hydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl)-4-fluoro-ethyl ester.
Sec. 1155. 2-Chlorobenzyl chloride.
Sec. 1156. (S)-Alpha-hydroxy-3-phenoxbenzenacetanitile.
Sec. 1157. 4-Pentenoic acid, 3,3-dimethyl- methyl ester.
Sec. 1158. Terrazole.
Sec. 1159. Mercaptotoanethol.
Sec. 1160. Bifenazate.
Sec. 1161. A certain polymer.
Sec. 1162. Ethylphenol.
Sec. 1163. Estrimine.
Sec. 1164. p-Cresulinesulfonic acid.
Sec. 1165. 2,4-Disulfolbenzene.
Sec. 1166. m-Disulfonylbenzaldehyde.
Sec. 1167. N-Ethyl-7-(3-sulfobenzyl)aniline benzenesulfonic acid, 3(ethylenylphenoxy)methyl.
Sec. 1168. Acrylic fiber tow.
Sec. 1169. Yttrium oxides.
Sec. 1170. Hexanedioic Acid, polymer with 1,3-benzenemethanamine.
Sec. 1172. Aluminum tris (O-ethyl phosphonate).
Sec. 1173. Mixture of disperse blue 77 and disperse blue 96.
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 thiaryl 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. Ethrop.
Sec. 1183. Formamsulfuron.
Sec. 1184. Certain epoxy molding compounds.
Sec. 1185. Dimethylidicyane.
Sec. 1186. Triacetamide.
Sec. 1187. Triethylene glycol bis [3-(3-tert-butyl-4-hydroxy-5-methylphenyl) propionate].
Sec. 1188. Certain power weaving textile machines.
Sec. 1189. Certain filmament 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


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.

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 agen-
(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 pay-
able 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 re-
suits 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 (W) 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 sub-
clause (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 convic-
tion, 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 sub-
paragraph (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).”.
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)."; 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)”;

(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 indi-
vidual or such individual's alternative representative
payee.

"(B) The total of the amount certified for payment
to such individual or such individual's alternative rep-
resentative 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:

"(l) LIABILITY FOR MISUSED AMOUNTS.—

"(1) IN GENERAL.—If the Commissioner of So-
cial Security or a court of competent jurisdiction de-
termines that a representative payee that is not a
Federal, State, or local government agency has mis-
used 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 representa-
tive 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 representa-
tive payee in any case with respect to which the Commiss-
ioner of Social Security or a court of competent jurisdic-
tion 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 ACCOUNT-
ing.—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 re-
port required by the Commissioner of Social Secu-
ri ty 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 re-
sides 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 indi-
vidual 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(e)(1) of such Act (42 U.S.C. 1320a–8(e)(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 PROBA-
TION 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.
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
"(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 Ad-
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 Commis-
sioner may prescribe.”.

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTER-
FERENCE 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 com-
munication) attempts to intimidate or impede any officer,
employee, or contractor of the Social Security Administra-
tion (including any State employee of a disability deter-
mination service or any other individual designated by the
Commissioner of Social Security) acting in an official ca-
pacity 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 im-
pedes, or attempts to obstruct or impede, the due adminis-
tration 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 Administra-
tion,” 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:

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“(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 addi-
tion 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 author-
ized 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 rep-
resentative 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 Fed-
eral Disability Insurance Trust Fund, as determined ap-
propriate 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 PAY-
MENT SYSTEM IMPROVE-
MENTS

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 great-
er of $75 or the adjusted amount as provided pursu-
ant to the following two sentences’ after “subpara-
graph (B)”; and

(2) by adding at the end the following new sen-
tence: “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 ad-
just 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 representa-
tion 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 preceeding 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 deter-
mined before any applicable reduction under section
1631(g), and reduced by the amount of any reduc-
tion in benefits under this title or title II made pur-
suant 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 attor-
ney, 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 de-
termined before any applicable reduction under sec-
tion 1631(g) and reduced by the amount of any re-
duction 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
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
8 (1) IN GENERAL.—The amendments made by
9 this section shall apply with respect to fees for rep-
10 representation of claimants which are first required to
11 be certified or paid under section 1631(d)(2) of the
12 Social Security Act on or after the first day of the
13 first month that begins after 270 days after the date
14 of the enactment of this Act.
15
16 (2) SUNSET.—Such amendments shall not
17 apply with respect to fees for representation of
18 claimants in the case of any claim for benefits with
19 respect to which the agreement for representation is
20 entered into after 5 years after the date on which
21 the Commissioner of Social Security first imple-
22 ments the amendments made by this section.
23
24 (c) STUDY REGARDING FEE-WITHHOLDING FOR
25 NON-ATTORNEY REPRESENTATIVES.—
26
27 (1) STUDY.—As soon as practicable after the
28 date of the enactment of this Act, the Comptroller
29 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 de-
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 sec-
tion 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 sen-
(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.

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)”;

(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
inglaws of the State in which the individual was domi-
ciled at the time (as determined based on evidence
 satisfactory to the Commissioner of Social Security),
“(D) the prior husband continued to remain in-
stitutionalized up to the time of his death, and
“(E) the individual married the surviving hus-
band 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 re-
tires” before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by
this section shall apply to years beginning before, on, or

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-
tic 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.—Sec-
tion 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 domes-
tic service in a private home of the employer”.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-
ERENCES.

(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 in-
come” 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 respec-
tive distributive share of the gross income and deductions;
and”.

March 12, 2003 (11:08 AM)
F:\V8\031203\031203.059
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

REPORT

[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.

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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 conversion 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 receipt 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. Antideficiency 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 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(j) of such Act (42 U.S.C. 1007(j)) is amended by adding at the end the following new paragraph:

"(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 paragraph."

(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—
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)."

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."

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.".

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.

Oversight of Representative Payees.

(a) Certification of Bonding and Licensing Requirements for Nongovernmental Organizational Representative Payees.—

(1) Title II Amendments.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) 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)(viii), 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 XVI) 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."
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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;"

(3) in subparagraph (C)(i)(II), by striking "subparagraph (B)(i)(W),," 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)—

(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:
   "(W) 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)(H)—
   (A) 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:
   "(W) 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: 

"(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.".
"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 individual."

(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) 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."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 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 another 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(i), 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 KNOWINGLY 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—”;

(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 $10,000, 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 'Medicare', " and inserting "'Medicare', '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;

'(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.—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 restitutio

(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforce-

(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this para-

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

(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 para-

(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—

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with re-

§ 1632 of the Social Security Administration shall be considered the victim.

§ 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforce-
ment of orders of restitution under this paragraph. In so applying such sec-
tions, the Social Security Administration shall be considered the victim.

§ 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 au-
thorized by law, that the defendant make restitution to the Social Security Administra-

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

(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 sub-
textion. In so applying such sections, the Social Security Administration shall be

(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.

(2) Subparagraph (A) shall not apply with respect to amounts received in connec-
tion 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 deter-
mained 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 Treas-
ury as miscellaneous receipts.".

"(B) 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 fol-
lowing sentence. Any amount so adjusted that is not a multiple of $1 shall be
rounded to the next lower multiple of $1, but in no case less than $75.

(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.
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)(L) 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), 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 XVI’ for the phrase ‘under title II’;

(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)(B), the phrase ‘or certified for payment’;

(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)’;

(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 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:

"(c) 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)(ii) 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. 121).

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 "(i)" after "(c);" and

(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 para-
graph (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 hus-
band 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 indi-
vidual would have divorced the prior husband and married the surviving hus-
band, 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)".
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 Jan-
uary 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
SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOV-
ERNMENT 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) WIDOW'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 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 which constituted 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 under paragraph (1)(C) thereof)”;
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)”;
5. in paragraph (3)—
   (A) by striking “paragraph (19) of section 241(a)” and inserting “subparagraph (D) of section 237(a)(4)”;
   (B) by striking “paragraph (19)” and inserting “subparagraph (D)”;
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(1)".

(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 rolcall 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 non-profit 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 FLEETING 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 FORCEFUL 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-
includes, 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 "sunsetted" 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


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.
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:

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<tr>
<th>Representative</th>
<th>Ye</th>
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<td>Mr. Thomas</td>
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<td>Mr. Crane</td>
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<td>Mr. Shaw</td>
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<td>Mr. Johnson</td>
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<td>Mr. Portman</td>
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<td>Mr. English</td>
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<td>Mr. Welter</td>
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<td>Mr. Hulshof</td>
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<td>Mr. Ryan</td>
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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:

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<th>Representatives</th>
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<td>Mr. Cantor</td>
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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:

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<tr>
<th>Representatives</th>
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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,

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
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).

<table>
<thead>
<tr>
<th>By fiscal year, in millions of dollars—</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
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<td><strong>CHANGES IN DIRECT SPENDING (OUTLAYS)</strong></td>
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<td>Title I. Protection of beneficiaries.</td>
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<td>Authority to reissue benefits misused by organizational representative payees: OASDI benefits</td>
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<td>Denial of benefits to fugitives. OASDI benefits</td>
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### By fiscal year, in millions of dollars

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<th>Title IV. Miscellaneous and technical amendments:</th>
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<td>60-month employment requirement for exemption from Government Pension Offset: OASDI benefits</td>
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<tr>
<td>Permission for Kentucky to operate divided retirement system: OASDI benefits</td>
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<tr>
<td>Total changes in direct spending:</td>
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<td>Off-budget (OASDI)</td>
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### Changes in Revenues

<table>
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<td>Permission for Kentucky to operate divided retirement systems:</td>
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<td>OASDI revenues</td>
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<tr>
<td>Other revenues</td>
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<tr>
<td>Clarification of eligibility for Work Opportunity Credit</td>
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<tr>
<td>Total changes in revenues:</td>
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<tr>
<td>On-budget</td>
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</table>
### 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-

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**By fiscal year, in millions of dollars—**

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**Net changes in direct spending and revenues (effect on deficits)**

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**Changes in spending subject to appropriation (outlays)**

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</tr>
<tr>
<td>SSI administrative expenses</td>
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<td>14</td>
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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).
resentative 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; even, 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 4,500 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 quality 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.

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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 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 MANIDATES

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

* * * * * * *
Old Age Insurance Benefits

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, 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, 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, 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 subsection (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, 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, 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 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 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, 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) is confined by court order in an institution at public expense in connection with—

(I) 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

(ii) 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 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)(i), the designation of such person as a representative payee 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 title XVI 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), 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)(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, [or]
(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 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.

[[3]] (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—
(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) 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) $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—

(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) 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.

(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) 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 ad-
justed 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 speci-
fied in the preceding sentence (including a previously ad-
justed amount) shall be adjusted annually under the proce-
dures 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.

SEC. 208. (a) 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)(1) 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 viola-
tion of any of the provisions of this section, if such violation is com-
mitted by such person or entity in his role as, or in applying to be-
come, a certified payee under section 205(j) on behalf of another in-
dividual (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 de-
scribed 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 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) (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. *

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VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) *

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PositionsCovered By RetirementSystems

(d)(1) *

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(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) * * *

(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) 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) 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.

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TITLE VII—ADMINISTRATION

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SOCIAL SECURITY ADVISORY BOARD

Establishment of Board

Sec. 703. (a) * * *

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[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

(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.

(4) MAINTAINING LISTS OF PAYEES.—The Commissioner of Social Security shall maintain lists which shall be updated periodically of—

(A) * * *

(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

(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 alterna-
tive representative payee of an amount equal to the mis-
used 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 com-
bination of such titles;
misuses all or part of an individual's benefit paid to such rep-
resentative 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 mis-
used. The provisions of this paragraph are subject to the limita-
tions 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 author-
ized by law, that the defendant make restitution to the So-
cial Security Administration.
(B) RELATED PROVISIONS.—Sections 3612, 3663, and
3664 of title 18, United States Code, shall apply with re-
spect to the issuance and enforcement of orders of restitu-
tion under this paragraph. In so applying such sections, the
Social Security Administration shall be considered the vic-
tim.
(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 pay-
ment, 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 re-
views of representative payees as the Commissioner of Social Secu-
ritiy may otherwise conduct, the Commissioner may provide for the
periodic onsite review of any person or agency that receives the bene-
fits 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 ca-
pacity 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.

(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.

TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION
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(i), 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) [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—
"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 Centers for Medicare & Medicaid Services, or Department of Health and Human Services or that such person has some connection with, or authorization from, the Social Security Administration, the Centers for Medicare & Medicaid Services, or 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—
* * *
(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 1561(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—

(1) * * *

(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); (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 certified community-based nonprofit social service agency licensed or bonded by the State;

(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) 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—
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)(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). 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 require-
ments of due process of law" for "subsection (g) or (h) of section 223".

(B) The Commissioner of Social Security shall notify each claim-
ant in writing, together with the notice to such claimant of an ad-
verse determination, of the options for obtaining attorneys to re-
represent individuals in presenting their cases before the Commis-
sioner 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 require-
ments 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 applica-
ble reduction under section 1631(g), and reduced by the amount
of any reduction in benefits under this title or title II made pur-
suant 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 rep-
resenting 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 per-
cent 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 appli-
cable reductions under sections 1631(g) and 1127(a).

(C)(i) Whenever a fee for services is required to be paid to an at-
torney 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 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].

* * * * * * * *
CONGRESSIONAL RECORD — HOUSE

H2625

April 2, 2003

UPON CONSIDERATION OF THE BILL (H.R. 743), TO AMEND THE SOCIAL SECURITY ACT TO PROVIDE ADDITIONAL PROTECTIONS FOR SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME BENEFICIARIES, AND FOR OTHER PURPOSES.

The SPEAKER pro tempore (Mr. Lin- denberger) announced that there were 2 minutes remaining to debate, and proceeded to call on Mr. Bilirakis.

Mr. BLILIRAKIS. Mr. Chairman, I would have voted 'yea.'

Mr.书记. thank you. The vote was taken by electronic device, and there were—yeas 245, nays 117, not voting, 12, as follows:

[Roll No. 99]

YEAS—245

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

Subtitle A—Representative Payees

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

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification of 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 payee.

Sec. 105. Liability of representative payees.

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

Sec. 107. Suspension of payments.

Sec. 108. Removal of benefits upon removal from the United States.

Sec. 109. Reinstatement of certain reporting requirements.

Sec. 110. Clarification of definitions relating to certain survivor benefits.

Sec. 111. Civil monetary penalty authority.

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 of 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 payee.

Sec. 105. Liability of representative payees.

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

Sec. 107. Suspension of payments.

Sec. 108. Removal of benefits upon removal from the United States.

Sec. 109. Reinstatement of certain reporting requirements.

Sec. 110. Clarification of definitions relating to certain survivor benefits.

Sec. 111. Civil monetary penalty authority.
payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) of the Act is amended by adding at the end of such section—

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (as so redesignated); and

(iii) by striking "subclause (II)" and inserting "subclause (I)"; 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; (2) the representative payee is an agency (other than an agency described in subparagraph (1)); and (3) 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.

(ii) the results of such reviews; and

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

(D) 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 any other reviews of representative payees conducted during such fiscal year in connection 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 subsection, section 1631(a)(2), 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.

(E) The number of cases discovered in which there was a misuse of funds; and

(F) How any such cases of misuse of funds were handled, by the Commissioner, the representative payee, or any other 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.

(G) 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 title II 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 section) or a combination of such agencies;

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

(iv) the results of such reviews;

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

(vi) the number of cases discovered in which there was a misuse of funds; and

(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.

(T) TITLE VIII AMENDMENT.—Section 205(j) of such Act (42 U.S.C. 1383(a)(2)) is amended to read as follows:

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

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

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

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

(F) How any such cases of misuse of funds were handled, by the Commissioner, the representative payee, or any other 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.

(G) 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 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.

(G) 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 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.

(G) 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 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.
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"(i) 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 the annual review 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 the representative payee under the 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—

"(1) the number of the reviews;

"(2) the results of such reviews;

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

"(4) 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, including any criminal penalties imposed, and

"(VII) any 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 FLEETING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 201(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subsection (a)—

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

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

(2) in subsection (b)(2)—

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

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

(3) in subsection (c)—

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

(B) by striking the period at the end of subparagraph (B).

(b) TITLE VIII AMENDMENTS.—Section 804(a)(2) of such Act (42 U.S.C. 405(j)(2)) is amended—

(1) in clause (ii)(V)—

(A) by striking "and" and inserting "or" at the end of subparagraph (II); and

(B) by redesignating subparagraph (II) as subparagraph (IV); and

(2) in clause (iii)(I)—

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

(B) by redesignating subparagraph (I) as subparagraph (IV); and

(3) in paragraph (7)—

(A) if the Commissioner of Social Security or a court of competent jurisdiction makes a determination that the representative payee was changed and why;

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

"(VIII) any other information as the Commissioner deems appropriate."
SEC. 106. AUTHORITY

use after 180 days after the date of the enactment of this Act.

(1) 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 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 the amount paid under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payee under clause (i) and the individual or such individual’s alternative representative payee.

(2) LIMITATION.—The total of the amount paid to such individual or such individual’s alternative 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 title II or under title XVI.

(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 205j(i)(9) and inserting section 205j(i)(10); and

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

“(ii) 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 paragraph (i) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

(d) 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 (4) the following new paragraph:

“(3) ALTERNATIVE REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in subparagraph (A) or (D) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (2), 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) 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.

(I) 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 I 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 of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title I or benefits or payments under title VIII or XVI, that 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 I or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation of 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 ‘‘because of such withholding of disclosure of a material fact’’ after ‘‘because of such statement or representation’’ in the second sentence.

EXEMPLARY PENALTIES.—Section 1129(a)(2) of such Act (42 U.S.C. 1320a-8(a)(2)) 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:

‘‘(I) 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 I or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

‘‘(II) makes such 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 I or benefits or payments under title VIII or XVI, that 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 I or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation of such omission is false or misleading or that the withholding of such disclosure is misleading;

shall be subject to’’;

(T) by inserting ‘‘or each withholding of disclosure of a material fact’’ after ‘‘or each such statement or representation’’ in the second sentence.

(E) by inserting ‘‘because of such withholding of disclosure’’ after ‘‘because of such statement or representation’’ in the second sentence.

SEC. 202. CONGRESSIONAL RECORD—VERSIONS WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) TREATMENT OF WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.
shall be subject to..."

(b) CLARIFICATION OF TREATMENT OF RECOVERY

Section 1129B(a)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking "charging fraud or false statements" and inserting "sharing, disclosing, or attempting to..."

Effective as soon as practicable; and the amendments made by this section shall take effect on the date that is 9 months after the date of the enactment of this Act.

(c) 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 OF DESCRIBED BENEFITS UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) In General.—The Social Security Act (42 U.S.C. 422(c)) is amended—

(1) by redesignating subsections (b), (c), and (d) of section 422 as subsections (c), (d), and (e), respectively; and

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

"(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.

(b)(2) RELIEVED—Sections 3612, 3636, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph.

(c) AMENDMENTS TO TITLE XVIII.—Section 312(a) of such Act (42 U.S.C. 1338a) is amended—

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

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

"(b) The court, in imposing a sentence under this section, shall in all cases be in addition to any other penalty due under this title as restitution, and shall in all cases be in addition to any sentence imposing such penalty.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the issuance and enforcement of orders of restitution to the Social Security Administration made 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) of section 208 as subsections (c), (d), and (e), respectively; and

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

"(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.

(b)(2) RELIEVED—Sections 3612, 3636, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph.

(c) AMENDMENTS TO TITLE XVIII.—Section 312(a) of such Act (42 U.S.C. 1338a) is amended—

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

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

"(b) The court, in imposing a sentence under this section, shall in all cases be in addition to any other penalty due under this title as restitution, and shall in all cases be in addition to any sentence imposing such penalty.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the issuance and enforcement of orders of restitution to the Social Security Administration made 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 208(a)" and inserting "section 208(b)";

(b) by striking "other than paragraph (4) thereof" and inserting "other than subsections (a)(4) and (d) thereof"; and

(3) by striking paragraph (2) thereof and inserting "such section";

(b) Subject to subparagraph (C), the phrase "determined to be entitled to such amount pursuant to the following sections of title XVI" shall apply to fees for representation of claimants which are first required to be certified or paid under section 208 of the Social Security Act on or after the first day of the month that begins after 180 days after the date of the enactment of this Act.
...
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included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 105-170: 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. TRANSITION REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT

(a) IN GENERAL.—Section 201(g) of the Social Security Act (42 U.S.C. 403(g)) is amended in the sixth sentence by striking "and a transcript...and, in any case in which the Commissioner has not made a decision fully favorable to the individual, 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(g) of the Social Security Act (42 U.S.C. 402(g)(1), (2)) are each amended by striking "or (1)(E)" and inserting "or (1)(D)"

(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. 413. RESTATEMENT OF CERTAIN REPORTS OF THE COMMISSIONER

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1131 note) shall not apply to any reports 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)(B) of the Social Security Act (42 U.S.C. 1395t(b)(2)(B))
2) (A) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395u(b)(2))
   (B) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 416(c)(3)(C))
3) (A) Section 211(c)(3) of the Social Security Act (42 U.S.C. 416(c)(3))
   (B) Section 221(c)(3) of the Social Security Act (42 U.S.C. 416(c)(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 (B) as subclauses (A) through (C), 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 "before she 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 survival husband of an individual shall be treated as satisfied if—
   (A) the individual was married prior to the individual's marriage to the surviving wife;
   (B) the prior wife was institutionalized during the individual's marriage to the surviving wife, and the individual did not become the survival husband due to mental incompetence or similar incapacity;"

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of the Social Security Act (42 U.S.C. 402(g)(4)(A)) is amended by striking "or (1)(E)" and inserting "or (1)(D)"

(c) CLARIFICATION OF DEFINITIONS.—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 (B) as subclauses (A) through (C), respectively;
   (2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;
   (3) by inserting "except as provided in paragraph (2)," before "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 survival husband of an individual shall be treated as satisfied if—
   (A) the individual was married prior to the individual's marriage to the surviving husband;
   (B) the prior husband was institutionalized during the individual's marriage to the surviving wife due to mental incompetence or similar incapacity;"

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 2003.

SEC. 415. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION

(a) WIFE'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of the Social Security Act (42 U.S.C. 402(h)(4)(A)) is amended by striking "if, on the last day she was employed by such entity and inserting "if, on the last day she was employed by such entity and ending with such last day"

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of such Act (42 U.S.C. 402(h)(4)(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 she was employed by such entity and ending with such last day"

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of such Act (42 U.S.C. 402(h)(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"

(d) WIDOW'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of such Act (42 U.S.C. 402(h)(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"

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of such Act (42 U.S.C. 402(h)(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 during months ending after the date of the enactment of this Act.

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 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. 403(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem—(f) A member of the Board shall, for each day (including travel time) during which the member is attending a meeting, including a meeting at which the member is engaged in performing a function of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule, as amended by this title of the United States Code, for persons in the Government employed intermittently..."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of 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(h)(4)(A) of the Social Security Act (42 U.S.C. 402(h)(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(h)(4)(A) of such Act (42 U.S.C. 402(h)(4)(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(h)(4)(A) of such Act (42 U.S.C. 402(h)(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"

(d) WIDOW'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of such Act (42 U.S.C. 402(h)(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"

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(h)(4)(A) of such Act (42 U.S.C. 402(h)(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..."
SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 101 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 of Social Security''.

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 index-excluded under section 107 of the Internal Revenue Code of 1986 is amended by striking "all of the gross income and deductions attributable to such trade or business or" in section 107 of the Internal Revenue Code of 1986 and inserting "as computed in the calendar year for cash remuneration computed on a time basis".

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 "on a farm operated for profit".

(b) Amendment to Social Security Act.—Section 2001(a)(7)(B) of the Social Security Act (42 U.S.C. 401(a)(7)(B)) is amended by striking "on a farm operated for profit" in section 2001(a)(7)(B)

(c) Conforming Amendment.—Section 3121(a)(7)(B) of such Code and section 2001(a)(7)(B) of such Act (42 U.S.C. 410(l)(15)) 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 United States or Other Jurisdiction.—Section 302(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended—
(1) by striking "deportation" each place it appears and inserting "removal";
(2) by striking "depoted" 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 241(a) (other than paragraph (1)(C) thereof or 212(a)(B)(i))":
(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)(B)(i) of such Act":
(5) in paragraph (3) (d) by striking paragraph (19) of section 241(a) and inserting "subsection (D) of section 237(a)(6); and
(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) Correction of Terminology 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 182(m)" and inserting "section 182(m) of this title".

(c) Elimination of Reference to Obsolete 20-Day Agricultural Work Test.—Section 3121(a)(1) of the Internal Revenue Code of 1986 is amended by striking "and the employer has not paid paragraph (1)(D) shall apply 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 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".

(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 deductions attributable to such trade or business will be treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions":

"The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of H.R. 743, as amended, is as follows:

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:

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 for services in case of benefit misuse by representative payees.

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

Sec. 106. Authority to redirect delivery of benefits when a representative payee fails to provide requested information.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to knowing withholding of Social Security benefits.

Sec. 112. Monetary penalty authority with respect to knowing withholding of Social Security benefits for the purposes of fraudulent concealment of work activity.

Sec. 113. Authority for judicial orders of restitution.

TITLE II—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 114. Cap on attorney assessments.

Sec. 115. Expansion of waiver authority available for attorney fees for representation in proceedings providing for reduction in disability insurance benefits based on earnings.

Sec. 116. Funding for demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 117. Availability of Federal and State work incentive services to additional individuals.

Sec. 118. 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. 119. Elimination of transcript requirements in remand cases fully favorable to the claimant.

Sec. 120. Nonpayment of benefits upon removal from the United States.

Sec. 121. Reinstatement of certain reporting requirements.

Sec. 122. Clarification of definitions regarding certain survivor benefits.

Sec. 123. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement country.

Sec. 124. Coverage under divided retirement system for public employees in Kentucky.

Sec. 125. Compensation for the Social Security Advisory Board.

Sec. 126. Mandate for period of employment requirement for application of government paid time off exemption.

Subtitle C—Technical Amendments

Sec. 127. Technical correction relating to responsible agency head.

Sec. 128. Technical correction relating to retirement benefits of ministers.

Sec. 129. Technical corrections relating to domestic employment.

SEC. 402. Expansion of waiver authority available for attorney fees for representation in proceedings providing for reductions in disability insurance benefits based on earnings.

SEC. 403. Funding for 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.


SEC. 407. Funding for demonstration projects provided for reductions in Social Security benefits based on earnings.

SEC. 408. Availability of Federal and State work incentive services to additional individuals.

SEC. 409. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

SEC. 410. Authority for judicial orders of restitution.

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 country.

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

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

SEC. 418. Mandate for period of employment requirement for application of government paid time off exemption.

Subtitle C—Technical Amendments

SEC. 419. Technical correction relating to responsible agency head.

SEC. 420. Technical correction relating to retirement benefits of ministers.

SEC. 421. Technical corrections relating to domestic employment.
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) Reissue of Benefits—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1382(a)(2)(E)) is amended by inserting after the third sentence of such section the following new sentence: “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 subparagraph (D)(iii)); 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 XVI, 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 such benefit so misused. The provisions of this paragraph are subject to the limitations of subparagraph (C).

(2) Misuse of Benefits Defined—Section 205(j) of such Act (42 U.S.C. 410(j)) is amended by adding at the end the following new paragraph:

“(g) 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) Reissue of Benefits—Section 807(1) of the Social Security Act (42 U.S.C. 1007(1)) (as amended by section 209(1)(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 (regardless of whether it is a ‘qualified organization’ within the meaning of subparagraph (A)); 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 VII, 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 representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subparagraph (C).

(2) Misuse of Benefits Defined—Section 205(j) of such Act (42 U.S.C. 410(j)) is amended by adding at the end the following new paragraph:

“(g) 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.”

(c) 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.
pursuant to subparagraph (A) and of any other reviews 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 the reasons for the change;

(iv) the 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.

VIII TITLE V EIGHTH 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:

(A) TITLE II AMENDMENTS.—Section 205 of such Act (as amended by section 101(b)(2) of this Act) is amended to read as follows:

"(g)(1) In addition to other such reviews of representative payees as the Commissioner of Social Security may order or conduct, the Commissioner shall provide for the periodic on-site 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 the person or agency as a representative payee under this paragraph, section 205(g), 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 nonprofit organization;

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

"(iv) the representative payee is an agency (other than an agency described in clause (III) 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 on-site reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews 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.

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1383(a)(2)) is amended—

(1) in subsection (a) by striking "Or" at the end of subparagraph (A)(iv), and "and inserting "subparagraph (B)(iv)," and striking "subparagraph (B)(iv)," and striking "subparagraph (B)(iv)," (B) by redesignating subparagraph (D) as subparagraph (F);

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

"(2) 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.

4 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)(1) In addition to other such reviews of representative payees as the Commissioner of Social Security may order or conduct, the Commissioner shall provide for the periodic on-site 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 the person or agency as a representative payee under this paragraph, section 205(g), 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 nonprofit organization;

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

"(iv) the representative payee is an agency (other than an agency described in clause (III) 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 on-site reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews 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.

(c) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1383(a)(2)) is amended—

(1) in subsection (a) by striking "Or" at the end of subparagraph (A)(iv), and "and inserting "subparagraph (B)(iv)," and striking "subparagraph (B)(iv)," (B) by redesignating subparagraph (D) as subparagraph (F);

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

"(2) 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.
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(‘‘E’’ such person is a person described in section 805(a)(2))

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

(a) TITLE I 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 it is 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).’’

(b) TITLE XVI AMENDMENTS—Section 1611(e)(4)(A) 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 it is 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).’’

(c) EFFECTIVE DATE—The amendments made by this section shall take effect on the first day of the enactment of this Act.

SEC. 105. AUTHORITY TO REDIRECT DELIVERY OF PAYMENTS ON BEHALF OF ANOTHER.

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

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

(2) by inserting after paragraph (9), ‘‘and

(i) Upon recovering all or any part of the amount paid under subparagraph (E) or (F), by striking paragraph (10) and inserting paragraph (11);’’.

(b) TITLE XVI AMENDMENTS—Section 1611(e)(4)(A) 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 it is 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).’’

(c) EFFECTIVE DATE—The amendments made by this section shall take effect on the first day of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF PAYMENTS ON BEHALF OF ANOTHER.

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

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (4), ‘‘and

‘‘(i) Upon recovering all or any part of the amount paid under subparagraph (E) or (F), by striking paragraph (10) and inserting paragraph (11);’’.

(b) TITLE XVI AMENDMENTS—Section 1611(e)(4)(A) 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 it is 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).’’

(c) EFFECTIVE DATE—The amendments made by this section shall take effect on the first day of the enactment of this Act.

SEC. 107. 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 an individual’s benefit that was paid to such representative payee under this Act, 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 the 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 representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to subparagraph (A), the recoverable amount 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. LIABILITY OF PERSON FOR MISUSED BENEFITS.

(a) TITLE I AMENDMENTS—Section 205(f) of the Social Security Act (42 U.S.C. 405(f)) as amended by sections 161 and 102 is amended—

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

(2) by inserting after paragraph (9), ‘‘and

‘‘(i) Upon recovering all or any part of the amount paid under subparagraph (E) or (F), by striking paragraph (10) and inserting paragraph (11);’’.

(b) TITLE XVI AMENDMENTS—Section 1611(e)(4)(A) 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 it is 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).’’

(c) EFFECTIVE DATE—The amendments made by this section shall take effect on the first day of the enactment of this Act.

SEC. 109. LIABILITY OF PERSON FOR MISUSED BENEFITS.

(a) TITLE I AMENDMENTS—Section 205(j)(3)(A) of the Social Security Act (42 U.S.C. 405(j)(3)(A)) as amended by sections 161 and 102 is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (4), ‘‘and

‘‘(i) Upon recovering all or any part of the amount paid under subparagraph (E) or (F), by striking paragraph (10) and inserting paragraph (11);’’.

(b) TITLE XVI AMENDMENTS—Section 1611(e)(4)(A) 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 it is 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).’’

(c) EFFECTIVE DATE—The amendments made by this section shall take effect on the first day of the enactment of this Act.
person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such pay-
ments on behalf of a qualified individual fails to do so, 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 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. 1381(a)(2)(C)) is amended by adding at the end the following new clause:

"(C) Omits from a statement or representation of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(D) makes such a statement or representation for use with knowing disregard for the truth or the right of another individual to receive such benefits or payments while withholding disclosure of such fact, after "each such statement or representation" in the second 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.

"(F) by striking "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the second sentence.

"(G) by striking "because of such statement or representation" after "such a statement or representation" in the second sentence.

"(H) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(I) by striking "who—" and inserting the following:

"(J) by inserting 'or each receipt of such benefits or payments while withholding disclosure of such fact,' after "each such statement or representation" in the second sentence.

"(K) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(L) by striking "because of such statement or representation" after "such a statement or representation" in the second sentence.

"(M) by striking "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the second sentence.

"(N) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(O) by striking "because of such statement or representation" after "such a statement or representation" in the second sentence.

"(P) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(Q) by striking "who—" and inserting the following:

"(R) by inserting 'or each receipt of such benefits or payments while withholding disclosure of such fact,' after "each such statement or representation" in the second sentence.

"(S) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(T) by striking "because of such statement or representation" after "such a statement or representation" in the second sentence.

"(U) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(V) by striking "who—" and inserting the following:

"(W) by inserting 'or each receipt of such benefits or payments while withholding disclosure of such fact,' after "each such statement or representation" in the second sentence.

"(X) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual.

"(Y) by striking "because of such statement or representation" after "such a statement or representation" in the second sentence.

"(Z) by inserting or such a withholding of disclosure of a material fact, for use in determining any provision relating to 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 other than for the use and benefit of another individual."
SEC. 208. 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:

"(f) EFFECTIVE DATE.—This title, or any part thereof, shall not take effect until 2 years after the date of the enactment of this title."

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:

"(f) EFFECTIVE DATE.—This title, or any part thereof, shall not take effect until 2 years after the date of the enactment of this title."
(B) Subparagraph (A) shall not apply with respect to amounts credited to a recipient for a period of more than 6 months as a representative payee (within the meaning of sections 203(i), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI of the Social Security Act on or 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 enactment of this Act, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report describing 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 AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY BENEFITS BASED ON EARNINGS.

Section 320(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(62
U.S.C. 401 et seq.) and inserting "(42 U.S.C. 401 et seq.) and the requirements of section 212(b) (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 FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 1150 of the Social Security Act (42 U.S.C. 1320b-19) 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(b)(2) of this Act; or

(B) who is receiving a cash payment described in section 1166(a) of this Act or a supplemental payment in section 1169 of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1161(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 treated as a beneficiary under title XV of such Act; or

(d) who is entitled to benefits under part A of title I of the Social Security Act because such individual would have been entitled thereto under the laws applicable to such individual at the time of death of such individual (as deter mined based on evidence satisfactory to the Commissioner of Social Security).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments made after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURSUANT TO WORK PLAN PROJECTS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1150(c) 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 11(g)(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 106-110, 113 Stat. 212).

Title B—Miscellaneous Amendments

SEC. 411. REIMBURSEMENT REQUIREMENTS 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)(2)) is amended in the sixth sentence by striking "and a transcript" and inserting "and a transcript entered into on or after the date of the enactment of this Act." 

(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. NOOB 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) and (2)) are each amended by striking "or (I)(E)(ii)."

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

SEC. 413. RESTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3903(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:

(A) Section 201(c) of the Social Security Act (42 U.S.C. 401(c));

(B) Section 1911(b)(1) of the Social Security Act (42 U.S.C. 1395u-1(b));

(C) Section 1841(b)(1)(B) of the Social Security Act (42 U.S.C. 1395u(b)(1));

(D) Section 221(a)(1) of the Social Security Act (42 U.S.C. 410(c));

(E) Section 221(b) of the Social Security Act (42 U.S.C. 410(c));

(F) Section 221(c) of the Social Security Act (42 U.S.C. 410(c));

(G) Section 221(d) of the Social Security Act (42 U.S.C. 410(c)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) VACANCY.—Section 201(b) of the Social Security Act (42 U.S.C. 401(b)) is amended—

(I) by redesignating subclauses (A) through (C) of clause (8) as subclauses (I) through (III), respectively;

(2) by redesigning clauses (I) through (III) as subclauses (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 *("I")* after *("g")*; and

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

"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 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 but for the prior husband’s institutionalization, 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 218(k) of the Social Security Act (42 U.S.C. 410(k)) is amended by striking "clause (5) of subsection (c) or clause (3) of subsection (g)" and inserting "clause (E) of subsection (c) or clause (E) of subsection (g)."

(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. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) In section 200(a)(5)(A) of the Social Security Act (42 U.S.C. 402(a)(5)(A)), as amended, the word "payment" is amended to read as follows:

(b) In section 202(b)(5) of the Social Security Act (42 U.S.C. 402(b)(5)), as amended, the word "payment" is amended to read as follows:

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSIION OFFSET EXEMPTION.

(a) WIFE'S INSURANCE BENEFITS—Section 210(a)(7)(A) of the Social Security Act (42 U.S.C. 410(a)(7)(A)) is amended by striking "if, during any portion of the last 60 months of such service ending with", by inserting "if, during any portion of the last 60 months of such service ending with", and by striking "if, during any portion of the last 60 months of such service ending with".

(b) WIDOW'S INSURANCE BENEFITS—Section 210(a)(7)(A) of the Social Security Act (42 U.S.C. 410(a)(7)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

SEC. 419. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT 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 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.

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 and manage them 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 work incentives 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
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required under suspension of the rules was not achieved. That is because special interest groups betrayed Social Security and America's seniors to appear to be giving them what 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 and other public servants who have 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 careers and equal pay. Both have paid Social Security taxes and receive Social Security benefits.

Both Mrs. Baker's and Mr. Smith's spouses have benefits of $600, which is one half of their 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 to be 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 in 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, or elsewhere. However, 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 impact the future of all other 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 after 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 Congress 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 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. 741 to stop this fraud and abuse in Social Security and in the process save the tax-payers $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 to try 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 two against vote. 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 benefits. 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 abscended with the money. This would tighten up the laws on representative payees and, secondly, would make sure that beneficiaries are held harmless and the representative payee is held liable. 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 people play 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 issue of the pension benefit for the law enforcement agencies. As many Members know, this legislation was passed in 1976. It did not take place until the mid-1980s. It was not fully 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 become eligible for both Social Security benefits and also take 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 often is in some cases been fairly unfair, and in many cases 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 the 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.

Obviously, we cannot reinstate full benefits, but perhaps there is something 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 some 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. MATSUI) 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, is to make sure that 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, would 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 Texas 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), the gentleman from California (Mr. SHAW), and 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 have sought to get those 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 used to strike that to help 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. As many of us have talked about the need to make sure that we strengthen Social Security into the future. There
Mr. BRADY of Texas. 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 do 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 the communities and our children. Many of those impacted expect 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.

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 receive only 70 percent of their just and hard-earned benefits.

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 Congress will agree that this provision is unfair, I urge all of my colleagues 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 what about the loophole that applies to women and widows? I 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 amendment. I would urge him to look 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 to the teacher loophole portion of this, because this is what we are discussing the most.

I admire teachers. They are hardworking, selflessly dedicated, as we all know. They are our 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 on 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退休 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 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. This is unfair to all the working families in America, those who have no loophole, including our soldiers overseas; and it is certainly unfair to our elderly who, even if we close the loophole tomorrow, 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 nothing, and wind up 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 that they did not earn?

Alarming, this 25-year-old obscure loophole just recently discovered is now being institutionalized. In Texas, in my State, teacher 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, 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 for university professors to work for them 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.

I urge all of my colleagues to support this bill, and I also urge my colleagues to support the Green amendment. We can all take this time to also rise and say that we really need to look at that government pension offset.

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.
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. Teach-

Without amendment. We must not wards helping them. And best of all, it recruit into teaching the professionals H2646

tleman from Florida (Mr. SHAw) intro-

serve a GPO correction, when the gen-

eral concern about whether the GPO also stands for "Government Pen-

fessional associations of our teachers ne- tersea seeking their well-earned retirement security. GPO also stands for "good photo op-

stantial, we cannot create two classes of citizens in America, those who have long served and those who do not.

Mr. MATSUI. Mr. Speaker, I yield 4

minutes to the distinguished gentle-

tleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

Mr. DOGGETT. What a truly dis-
presenting appointment. Mr. Speaker, this is not about "gimmicks," and it is not really even about Texas teachers. It is also not about this Congress having on the floor of the House its first ever vote in recent memory on cor-

recting the Government Pension Offset and Windfall Elimination Provision. Last year, when the constituents of the gentle-

tleman 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 gentle-

tleman from Florida (Mr. SHAW) re-

leashed the CAO report to which he has referred today, although he and the gentle-

tleman from Texas (Mr. BRADY) use terms like "fraud" and attack the pro-

fessional associations of our teachers in Texas, although he even has the aud-

cy today to invoke our soldiers overseas and our police officers and our fi-

ighted teachers who deserve a GPO correction, when the gentle-

tleman from Florida (Mr. SHAW) intro-

duced the CAO report, he said that "The ap-

parently growing use" of what he calls a loophole "is only a symptom of gen-

eral concern about whether the GPO itself is fair... That is why my plan would reduce the Government Pension Offset." [Aug. 15, 2002 press re-

lease] 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 "gim-

micks," not the Texas Federation of Tex-

cians, but police officers in New York City and firefighters in San Fran-

cisco, and everyone in between who has been a public servant and who has suf-

ered as a result of this Windfall Elim-

nation Provision. They are the same ones that they are standing against today.

"GPO" stands for "Government Pen-

sion Offset." It cuts into the retire-

ment security of dedicated public serv-

ants, 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 only stands for "good photo op-

portunity." That is what is involved here. Whether it is police officers, fire-

fighters, 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 re-

tirement security, they come up with one excuse after another.

This provision dealing with the self-

help provisions that Texas teachers have used is quite dis-

tinguished member of the subcommittee.

Mr. HULSHOF. Mr. Speaker, I thank the gentle-

tleman for yielding time to me. The gentle-

man from Texas (Mr. DOGGETT) who spoke last has regaled us on a number of occasions with some in-

teresting 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, a defender of the every American 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 Sep-

ember 11, in the committee he went as far as to say that "the folks 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 police-

man'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 per-

formed work in Social Security-cov-

ered positions for short periods, and in fact even for a day, in order to offset their 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 egre-

gious type of way that this is being ex-

ploited, and unfortunately, much to the chagrin of other hardworking So-

cial Security payees across the country. School officials reported individ-

uals were taking, or one individual traveled 800 miles one way, 800 miles, a two-day trip, to be employed for a sin-

gle day, traveling back 800 miles back to that person's home in order to get away from this government pension offset in this exemption.

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 charg-

ing these retirees a processing fee for their school districts. Ultimately, what it means is that
Mr. Speaker, I rise to make an argument that I hope will also be entertained by the Speaker, and I hope will be entertained by the other members of the House.

I want to focus on 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 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. games and horse races. Yet 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.

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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 predesignated 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 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.)

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 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 about. Teachers and widows 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 would work 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 on State, local, or Federal, 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, and it makes sense for provisions 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 put the 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 this floor today to speak out yet against H.R. 743. The Social Security Protection Act was introduced in 2003. This 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 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 reissuance 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 includes various 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 our support and progress, this would 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. This 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, Mr. Speaker, 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 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 a 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 those 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. MATSU. 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) to strike section 404.

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 penalizes our 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 crisis concerning our 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.

Mr. Green, 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 policy that forces public employees throughout the Nation will be penalized for the Social Security they paid into.

Mr. GREEN of Texas. 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, crucial, important, 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 would 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 buttress The Criminal Welfare Fraud Prevention Act 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 who have stopped paying their 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. MATSU. 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. Mr. Speaker, this is the last amendment he and I have proposed together. I yield the last amendment that I have proposed to the gentleman from Texas (Mr. Hinojosa). I think this is a bill that we should do. We need to do it.

Mr. GREEN of Texas. Mr. Speaker, I think the debate has been good because it has talked about what the concern is. That is what we are trying to do is have the retirement income for women is so much lower than men. We have teachers who said you mean to tell me I, will vote for final passage of this legislation.

Mr. MATSU. 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 is what 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, that has at least 30 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 them only pay one-third. Sure, they only work a day maybe, but they are not getting it for their work under Social Security.

Section 303

Mr. MATSU. 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 Chairman, the subcommittee. We put together a bipartisan bill. Obviously with the Social Security Administration, with the beneficiary groups and certainly with the bipartisan 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, that 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, but before the April recess and so I look forward to working with him with the idea of perhaps giving 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 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 some financial realities 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.


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 payer but could not find one would not lose any benefits. These programs were quite successful but were limited.

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 Tick- et to Work Act and goals of 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 Americans. This legislation builds upon prior legislation and could discourage other mailers from scaring older people about their Social Security and Medicare benefits. This legislation builds upon prior legislation and could discourage other mailers from scaring older people about their Social Security and Medicare benefits.

You thank you for your leadership in moving H.R. 743 in the House.

Sincerely,

DAVID CERTNER, Director, Federal Affairs.


Hon. CLAY SHAW, Chairman.

DEAR CHAIRMAN SHAW AND RANKING MEMBER MTSU: 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 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 Accountability Office (GAO) has recommended eliminating this loophole, estimating that failure to do so will cost the program $50 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 earned them and protected the rightful interest of 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 proposed for a specific period of time in the 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 the last day of employment, they are in a covered position. To date, 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 to positions 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 employees.

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 Public Statement or other activities of the NCSSSA, please contact either Nicholas C. Merrill, Jr. (IL) Legislative Committee Chairman, (312) 285-2240, or Steve Delaney, (OR) President, at (503) 603-7694.

NCSSSA background: Since its formation in 1951, 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 the needs and local government employees. The NCSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of federal tax policies, and resolution of problems arising at the state and local level.


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 the loophole that currently exists in 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 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 for 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 legislation also 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 Government Accounting Office estimated that the loophole could cost Social Security $45 million and even more if the loophole grows. Not closing this loophole would be fiscal 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.
CONGRESSIONAL RECORD - HOUSE

H2651

April 2, 2003

Hon. E. CLAY SHAW, Jr., Chairman, Subcommittee on Social Security, Committee on Ways and Means, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRPERSON SHAW: We write on behalf of the Association of Administrative Law Judges. We represent approximately 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 mandated for the bill, but we believe that the legislation should not include any “sunset” provisions. We further support the position of 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 determinations of earnings by beneficiaries.

Thank you for your work on this important legislation.

Sincerely,

RONALD G. BERNOISKI, 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 and how much of a way it allows 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 fire-fighters. 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 affects fire-fighters 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.
I believe our teachers are worth more than they are paid.
We need to make sure our children are receiving a quality
education. 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 and other public
school personnel. Congress should also act to
pass the Social Security Tax Credit (HR 614), which provides a $1,000
tax credit every teacher with a $1,000 tax credit.
Mr. Speaker, this bill before us would reduce the spousal Social Security
benefits. As we all know, H.R. 743 will extend the
direct fee withholding program to attorneys who represent claimants, thus encouraging more attor-
neys to represent them.
I urge you to vote for passage of this bill.
Mr. Speaker, I rise in support of H.R. 743. First, I would like to ac-
knowledge Mr. Matsui for working diligently
As we all know, H.R. 743 will extend the
direct fee withholding program to attorneys who represent claimants, thus encouraging more attor-
neys to represent them.
It is vital that we pass legislation that ad-
dresses 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 rep-
resentative payees accountable 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 April 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 so-
cial 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. LIN-
der). All time having been yielded back, it is now in order to consider the amendment in the nature of a sub-
AMENDMENT 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 in-
sert the following:
SECTION I. SHORT TITLE AND TABLE OF CON-
TENTS.
(a) SHORT TITLE.—This Act may be cited as
the 'Social Security Protection Act of 2003'.
(b) TABLE OF CONTENTS.—The table of con-
tents 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 mis-
used by organizational rep-
resentative payees.
Sec. 102. Over-riding 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,
who have committed fraud.
Sec. 104. Fee forfeiture in case of benefit misuse by representative payee.
Sec. 105. Liability of representative payees for misuse of Social Security monies.
Sec. 106. Authority to direct delivery of benefit payments when a repre-
sentative payee fails to pro-
vide required accounting.
Subtitle B—Enforcement
Sec. 111. Civil monetary penalty authority with respect to wrongful con-
versions by representative pay-
ees.
TITLE II—PROGRAM PROTECTIONS
Sec. 201. Civil monetary penalty authority with respect to knowing with-
holding of material facts.
Sec. 202. Issuance by Commissioner of Social Security of receipts to ac-
knowledge submission of re-
ports of changes in work or
earnings status of disabled beneficiaries.
Sec. 203. Denial of title I benefits to persons violating parole, confin-
ement, or to persons violating probation or parole.
Sec. 204. Requirement thatrepresentatives offer to provide for a fee a product or service available without charge from the Social Security Admin-
istration.
Sec. 205. Refusal to recognize certain indi-
viduals as claimant representa-
tives.
Sec. 206. Penalty for corrupt or forcible in-
terference with administration of Social Security Act.
Sec. 207. Use of symbols, emblems, names in reference to social security or
medicare.
Sec. 208. Disqualification from payment dur-
ing trial work period upon con-
viction of fraudulent conceal-
ment of work activity.
Sec. 209. Authority for judicial orders of res-
titution.
TITLE III—ATTORNEY FEE PAYMENT
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 Im-
Sec. 401. Application of demonstration au-
thority sunset date to new projects.
Sec. 402. Expansion of waiver authority available in connection with demonstration projects pro-
viding for reductions in dis-
ability insurance benefits based on earnings.
Sec. 403. Funding of demonstration projects provided for in enabling legislation provided for in the
ability insurance benefits based on earnings.
Sec. 404. Availability of Federal and State work incentive services to addi-
tional 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 require-
ment in remand cases fully fa-
sed for Social Security benefi-
cies.
Sec. 412. Nonpayment of benefits upon re-
moval from the United States.
Sec. 413. Reinstatement of certain reporting requirements.
Sec. 414. Clarification of definitions regard-
ing certain survivor benefits.
SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(I) REISSUANCE OF BENEFITS.—Section 205(j)(10) of the Social Security Act (42 U.S.C. 405(j)(10)) is amended by inserting after the word ‘the’ the following new sentence: ‘In any case in which a representative payee that—

(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of those 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 subsection (l).’.

(ii) (by redesignating items (aa) and (bb) as (ba) and (bb), respectively) and inserting ‘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.’

Sec. 102. MISUSE OF BENEFITS DEFINED.—Section 405(j)(5) of the Social Security Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting, in accordance with the need for technical and conforming amendments, 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 which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.

Sec. 103. TECHNICAL AMENDMENT.—Section 807(a)(1) of such Act (42 U.S.C. 1007(a)) is amended by adding, 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 which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).’.

Sec. 104. EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—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 paragraph:

‘(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, or 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 paragraph (l).’.

Sec. 105. MISUSE OF BENEFITS DEFINED.—Section 405(j)(5) of the Social Security 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—

(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.

Sec. 106. TECHNICAL AMENDMENT.—Section 807(a)(1) of such Act (42 U.S.C. 1007(a)) is amended by adding, 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 which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.

Sec. 107. MISUSE OF BENEFITS DEFINED.—Section 405(j)(5) of the Social Security 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—

(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.

Sec. 108. MISUSE OF BENEFITS DEFINED.—Section 405(j)(5) of the Social Security 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—

(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.

Sec. 109. MISUSE OF BENEFITS DEFINED.—Section 405(j)(5) of the Social Security 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—

(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.

Sec. 110. MISUSE OF BENEFITS DEFINED.—Section 405(j)(5) of the Social Security 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—

(A) is not an individual; or

(B) is an individual who, for any month during which misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VII, 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 prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.’.
H2654

CONGRESSIONAL RECORD — HOUSE

April 2, 2003

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the fiscal year following the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—(1) IN GENERAL.—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 deems appropriate, the Commissioner shall conduct, for the purposes of administering title VIII or section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act), the Commissioner shall conduct such records of periodic onsite reviews conducted during such fiscal year in connection with benefits under this title. 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):—

(A) the number of such reviews;

(B) the results of such reviews;

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

(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted under paragraph (3)(A) of section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act) to an individual pursuant to section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act).

(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 review 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 the 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 under paragraph (3)(A) of section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act) to an individual pursuant to section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act).

(3)(A) the number of cases discovered in which there was a misuse of funds;

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

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

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

(42) THE number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted under paragraph (3)(A) of section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act) to an individual pursuant to section 205(j) of title II of such Act (as amended by section 101(b)(2) of such Act).

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (42 U.S.C. 1331(a)(2)(C)) is amended to read as follows:

"(2) TITLE VIII AMENDMENT.—Section 807 of such Act (42 U.S.C. 1331(a)(2)(C)) is amended to read as follows:

'(A) in subparagraph (D), by redesignating subparagraph (B) as (C); (B) in subparagraph (B)(i), by amending such subparagraph (B) by striking "and" at the end of such subparagraph and inserting "or" in lieu thereof; (C) by redesignating subparagraph (B) as (C); (D) by redesigning subparagraph (D) as subparagraph (F); and

(V) by redesigning subparagraph (D) as subparagraph (F).
(C) by inserting after subparagraph (C) the following new subparagraphs:

"(D) the location or apprehension of such person is within the officer’s official duties; and

(E) such person is described in section 1631(a)(2)(D)(i)."

(2) TITLE VIII AMENDMENT—Section 807 of the Social Security Act (42 U.S.C. 1383a) is amended—

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

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

(2) in paragraphs (2), (3), (5), and (6) by striking "paragraph (9)" and inserting "paragraph (10)";

(3) (A) by redesignating subparagraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(4) by adding after paragraph (6) the following new paragraphs:

"(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 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.

(8) The total 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 XVI AMENDMENTS—Section 1617 of the Social Security Act (42 U.S.C. 1396) 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."

SEC. 108. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEE.

The Secretary shall be treated as a misused 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—

(a) EFFECTIVE DATE.—The amendments made by this section shall apply to any month during which the 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.

(b) LIABILITY OF REPRESENTATIVE PAYEE.—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 certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.

(c) LIMITATION.—The total amount paid to such individual or such individual’s alternative representative payee under paragraph (2) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”.
amendment by the representative payee with respect to such individual.

(c) TITLE XVI AMENDMENTS—Section 1611(i)(3) of the Social Security Act (42 U.S.C. 1381a(i)(3)) 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 payment on behalf of another fails to submit a report required by the Commissioner of Social Security pursuant to section 205(j), 807, or 1331(a)(2), a payment under title II, VIII, or XVI for the use and benefit of any other individual, or any part thereof, to a use that such person knows or should know is false or materially misleading, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of whether the withholding of disclosure is misleading, such person shall also be subject to, in lieu of 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.

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

SEC. 105. 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)) is amended by sections 102(a)(1)(B) and 105(a)(2) is amended—

(1) by striking subparagraphs (E) and (F) as paragraphs (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 receive such payments, require that such person appear in a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payment.

(b) TITLE VIII AMENDMENTS—Section 807(h) of such Act (42 U.S.C. 1320a(h)) is amended—

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

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

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS TO 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 another 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 a United States Government facility designated by the Social Security Administration serving the area in which the qualified individual resides in order to receive such benefit payments.

(c) TITLE XVI AMENDMENTS—Section 1631a(2)(B) of such Act (42 U.S.C. 1383a(2)(B)) 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 payment on behalf of another fails to submit a report required by the Commissioner of Social Security pursuant to section 205(j), 807, or 1331(a)(2), a payment under title II, VIII, or XVI for the use and benefit of any other individual, or any part thereof, to a use that such person knows or should know is false or materially misleading, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of whether the withholding of disclosure is misleading, such person shall also be subject to, in lieu of 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.

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

Subtitle B—Enforcement

SEC. 101. 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:

"(2) Any person (including an organization, agency, or other entity) who, having received payment on behalf of another, with knowing disregard for the rights of another, converts the amount of monthly insurance benefits under title II or benefits or payments under title XIII of the Act, or any part thereof, to a use that such person knows or should know is false or materially misleading, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of whether the withholding of disclosure is misleading, shall be subject to, in lieu of 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 take effect upon the date of enactment of this Act.

SEC. 102. PROGRAM PROTECTIONS.

(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(c)(1)) is amended—

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

"(B) by striking "makes, or causes to be made, a statement or representation referred to in subsection (a)—":

"(C) by adding at the end the following:

"(2) makes or causes to be made, a statement or representation regarding the withholding of any material fact, for use in determining any initial or continuing right to or amount of monthly insurance benefits under title II or benefits or payments under title XIII of the Act, or any part thereof, to a use that such person knows or should know is false or materially misleading, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of whether the withholding of disclosure is misleading, shall be subject to, in lieu of any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect upon the date of enactment of this Act.

Subtitle C—Civil Monetary Penalties

SEC. 103. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO AUTHORITY TO WITHHOLDING OF MATERIAL FACTS.

(a) IN GENERAL.—Section 1129(a)(3)(D) of the Social Security Act (42 U.S.C. 1320a-8(d)(3)(D)) is amended—

(1) by striking subparagraphs (2) and (3) respectively; and

(2) by inserting after subparagraph (1) the following new subparagraph:

"(4) AUTHORITY TO ISSUE RECEIPTS IN LIEU OF WITHHOLDING OF MATERIAL FACTS.—In the case of any person (including an organization, agency, or other entity) who, having received payments on behalf of another, with knowing disregard for the rights of another, converts the amount of monthly insurance benefits under title II or benefits or payments under title XIII of the Act, or any part thereof, to a use that such person knows or should know is false or materially misleading, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of whether the withholding of disclosure is misleading, such person shall also be subject to, in lieu of 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 take effect upon the date of enactment of this Act.
of this Act, until such time as the Commissioner of Social Security implements a centralized claimant rights process regarding 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 ON FEDERAL OR STATE PAROLE.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 1320c-10(a)) 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”;

(b) REGULATIONS—Not later than the first day of the first month that begins after the date of the enactment of this Act, the Commissioner shall promulgate regulations governing the payment of benefits pursuant to the last sentence of subsection (a) and regulations governing payment by the Commissioner of Social Security to a beneficiary under this title with respect to a period of parole imposed under Federal or State law.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OFFERED 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:

“(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 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.

(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 made—

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

(ii) to provide a self-help service for an individual assigned to the Social Security Administration for Medicare and Medicaid Services or a State Medicaid agency for assistance in applying for Medicare or Medicaid.

(c) In paragraph (3), by striking “by the Commissioner of Social Security” and inserting “to the claimant and, thereafter, may be continued”.

(d) In paragraph (4), by striking “and may disqualify as a non-attorney representative” and inserting “and may disqualify as a non-attorney representative or as a representative.”.

SEC. 205. DISQUALIFICATION FROM PAYER DURING TRIAL PERIOD WORK UPON CONVICTION OF IMPEDING OR DISCOURAGING WORK ACTIVITY.

(a) IN GENERAL.—Section 223(c) of the Social Security Act (42 U.S.C. 1320c-10(c)(1) is amended—

(1) in subparagraph (A), by inserting “Centers for Medicare & Medicaid Services” after “Health Care Financing Administration”;

(2) in subparagraph (B), by inserting “CMS” after “HCF”; and

(3) in subparagraph (C), by inserting “CMS” after “Medicare”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the date of the enactment of this Act.

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

(a) IN GENERAL.—Section 1126B of the Social Security Act (42 U.S.C. 1320d-10) is amended—

(1) in the first sentence of subsection (a), by striking “or any other provision of Federal or State law” and inserting “Federal law”;

(2) in the last sentence, by striking “or for a period of more than 180 days” and inserting “or for a period of more than 10 years”;

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES.

(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”;

(2) in subparagraph (B), by inserting “Centers for Medicare & Medicaid Services” after “Health Care Financing Administration”;

(3) in subparagraph (C), by inserting “CMS” after “Medicare”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the date of the enactment of this Act.
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, 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) AMENDMENT TO TITLE II.—Section 208(b) of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), 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, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration. "

(2) by adding to the end of the following new sentence: "The phrase 'Social Security Administration' shall be considered the victim."

(c) ANDMENTS TO TITLE VIII.—Section 302 of the Social Security Act (42 U.S.C. 904) is amended—

(a) by striking "(2) (A) IN GENERAL.—In any case where": and inserting the following:

"(1) IN GENERAL.—In any case where":

(b) by striking "(2) COURT ORDER FOR RESTITUTION.—":

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

(d) by adding the following new subsection:

"(2) COURT ORDER FOR RESTITUTION.—

(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may, 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 subsection. 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 subsection, the court shall state on the record the reasons therefor."

"(D) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Payments of such amounts shall be deposited by the Managing Trustee into the General Fund of the Treasury. All other such amounts shall be deposited by the Managing Trustee into the Federal Highway Trust Fund."

"(E) DATE—The amendments made by this section apply to orders of restitution entered after December 31, 2003."

"(F) IMPLEMENTATION.—At the end of the provision added by subsection (a) of section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount used in determining the maximum amount of the assessment may not exceed 10 percent of the amount of past-due benefits determined under section 1631(g), or 25 percent of such benefit amount, whichever is less."

"(G) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to orders of restitution entered after December 31, 2003."

"(H) PROFESSIONAL FEES.—Amounts paid pursuant to subsection (a) shall be deposited by the Managing Trustee into the Federal Highway Trust Fund."

"(I) DEDUCTIONS.—In no case shall the amount of any deduction in excess of the lesser of—

(A) the amount of the assessment under section 1631(g), or

(B) the amount of past-due benefits determined under section 1631(g), or

(C) the amount of past-due benefits determined under section 1631(g), reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a).

These amounts shall in all cases be in addition to any amounts provided in advance in appropriation Acts.
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 CLAIMS.

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

(1) in the case 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 (b) by inserting 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 "April 2, 2003" and inserting "on or after the first day of the first month to be determined by the Commissioner of Social Security pursuant to an agreement under section 1619(b) of this Act or under section 212(b) of Public Law 93—66;"

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:

(1) EXPENDITURES.—Administrative expenditures under paragraph (1) of this subsection 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 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.

(I) IN GENERAL.—Section 114(c) of the Social Security Act (42 U.S.C. 402(n)(2)) is amended to read as follows:

(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means—

(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 1148(g)(2) of this Act; or

(C) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act.

SEC. 405. FUNDING OF DEMONSTRATION PROJECTS UNDER THE PROVISIONS OF SECTION 1149(c)(2) OF THE SOCIAL SECURITY ACT.

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 a decision fully favorable to the individual, a transcript".

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 by adding the following new paragraph:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 31(d)(b)(1) 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 this section shall apply with respect to the first day of the first month to be determined by the Commissioner of Social Security pursuant to an agreement under section 1619(b) of this Act or under section 212(b) of Public Law 93—66;"
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 to the period after the date of enactment of this Act to the extent that the period is before January 1, 2003.

SEC. 413. RESTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

(a) Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1131 note) shall not apply to any reporting requirements under any of the following provisions of law:

(I) Section 201(c)(2) of the Social Security Act (42 U.S.C. 416(c)).

(II) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395(b)(2)).

(III) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 421(b)(2)).

(b) Section 211(c)(1)(A) of the Social Security Act (42 U.S.C. 421(c)(1)(A)).

(c) Section 416(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

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 the subclauses (a) through (m) of clause (6) as subclauses (i) through (nn), respectively;

(2) by redesignating clauses (1) through (6) of section 5703(b)(1) of the Social Security Act (42 U.S.C. 418(d)(6)), as redesignated, by inserting “except as provided in paragraph (2)”, before “he was married”;

(3) by inserting “(ii)” after “(i)”, and

(4) by adding the end the following new paragraph:

“(yy) ‘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 surviving wife 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),

(III) the prior husband’s 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.’.”

SEC. 415. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3210(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 202(a)(6) of the Social Security Act (42 U.S.C. 401(a)(6)) is amended by striking “pdf” after “pdf”.

(c) AMENDMENT.—Section 212(a)(6) of such Act (42 U.S.C. 410(f)(6)) is amended by striking “or is domiciled in a private home of the employee”.

SEC. 416. TECHNICAL CORRECTIONS OF OUT-DATED REFERENCES.

(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(a) of the Social Security Act (42 U.S.C. 401(a)) as amended by section 412 is amended further—

(I) by striking “deportation” each place it appears and inserting “removal”;

(II) by striking “in the case” each place it appears and inserting “removal”;

(III) by striking “in the case” each place it appears and inserting “removal”;

(IV) in paragraph (3), by striking “(B)” and inserting “(A)”.

(b) AMENDMENT.—Section 202(a)(7)(B) of such Act (42 U.S.C. 401(a)(7)) is amended by striking “(B)” and inserting “(A)”.

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 by inserting “Commissioner of Social Security”, in place of the words “Secretary of Health, Education, and Welfare”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on January 1, 2003.

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

(a) IN GENERAL.—Section 114 of the Social Security Act (42 U.S.C. 12306) is amended by striking “Secretary” each place it appears and inserting “Commissioner”.

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

SEC. 422. TECHNICAL CORRECTION RELATING TO MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting “(A)” and inserting “(B)”.

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

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 211(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 202(a)(6) of the Social Security Act (42 U.S.C. 401(a)(6)) is amended by striking “pdf” after “pdf”.

(c) AMENDMENT.—Section 212(a)(6) of such Act (42 U.S.C. 410(f)(6)) is amended by striking “pdf” and inserting “pdf”.

SEC. 424. TECHNICAL CORRECTIONS OF OUT-DATED REFERENCES.

(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(a) of the Social Security Act (42 U.S.C. 401(a)) as amended by section 412 is amended—

(I) by striking “deportation” each place it appears and inserting “removal”;

(II) by striking “in the case” each place it appears and inserting “removal”;

(III) in paragraph (5), by striking “(B)” and inserting “(A)”.

(b) AMENDMENT.—Section 202(a)(7)(B) of such Act (42 U.S.C. 401(a)(7)) is amended by striking “(B)” and inserting “(A)”.

(c) AMENDMENT.—Section 202(a)(7)(B) of such Act (42 U.S.C. 401(a)(7)) is amended by striking “(B)” and inserting “(A)”.

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning on or after January 1, 2003.

SEC. 425. TECHNICAL CORRECTION RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 211(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “pdf” after “pdf”.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 202(a)(6) of the Social Security Act (42 U.S.C. 401(a)(6)) is amended by striking “pdf” and inserting “pdf”.

(c) AMENDMENT.—Section 212(a)(6) of such Act (42 U.S.C. 410(f)(6)) is amended by striking “pdf” and inserting “pdf”.

SEC. 426. TECHNICAL CORRECTION RELATING TO SELF-EMPLOYMENT IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(15)(A) of the Social Security Act (42 U.S.C. 411(a)(15)(A)) is amended by striking “all of the gross income” and all
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that follows and inserting "the gross income and deductions attributable to 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 102(a)(1)(A) of the Internal Revenue Code of 1986 is amended by striking "of the gross income" and all that follows and inserting "the gross income and deductions of each 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:"

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from Texas (Mr. GREEN) and a Member opposed will each control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. GREEN). 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 I am in opposition to it 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 if we are having a debate about how the bill is structured. We need to bring equity to a system under scrutiny.

This amendment concerns some teachers in Texas. The Texas teacher retirement system is substitute for Social Security. A teacher who has participated into Social Security and 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 or a small business owner, Social Security-covered employer like 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 system 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 $800, for example, for the nurse, and her spouse benefit is $800, she would collect $800 but not $1,600 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.

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 our 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, the law was 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.

Mr. Speaker. As the gentleman from Texas (Mr. LAMPSON) stated, the so-called "loophole" is being closed. It 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 and 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 and get out of State retirement, and our classrooms across the State of Texas and across this whole country are crying for good people to go into the classroom.

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 from this floor praise so very much. And let us say they work there for as long, as they have paid into Social Security and the State Teachers Retirement System. I was, for a number of years, and has successfully put a significant amount of money in the Texas State Teachers Retirement System. That is a local choice.

Let us take a teacher in Texas, Mrs. Brown. And according to the Social Security actuaries, that teacher is not going to receive some of the benefits she thought she might be able to. And let us say they work there for as long, as they have paid into Social Security and the State Teachers Retirement System. I was, for a number of years, and has successfully put a significant amount of money in the Texas State Teachers Retirement System. That is a local choice.
amendment slows down the addressing of the pension offset. A "no" vote on the Green amendment puts all Americans in the same position, paying 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 this more than just a teacher who distinguishes 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 save their school 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 okay to have them 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. I doubt 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, the Troops to Teach 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 with what 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 cut 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 our children.

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. It is not only unfair to the children of military families, it is a loophole that needs to be closed.

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 everyday 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 that I and 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 our 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. I am going to 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 that everybody 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 nothing.

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 has 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 1 day in Social Security and contribute $2 and collect over $100,000 more, they pull down $1,700 a month for widows' 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. If everyone has a loophole, then we 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 giving 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. If they do 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, it is, won't be only she that loses. It will be our nation's children who lose—an experienced, intelligent teacher. The Green Substitue 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 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 able 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 Republican 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's 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. 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 fearful 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 of the underlying bill.

And I would again say to the gentleman from Texas (Mr. SANDLIN) who just spoke, would the following hypothetically 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, that single day is worth $8, $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, $50,000 a year for 20 years of work?

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 would say 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 they 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 a lot of widows 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. SANDLIN). 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 Iraq 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 the benefits that they are going to receive 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 schools have gone from 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. BRAUN). 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 soldier and 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 do here is make sure 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 save a tax.

Mr. Speaker, I yield 1 minute to the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON).

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 best professions there is. Not a single person here has gotten here without having some teachers. We do not pay them very well. It is a profession that looks after 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 the time.

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. The difference is that 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), partici-
pate: but we have over 1,100 school dis-
tricts that are local decisions. My wife as a teacher did not decide she 
would go to work for someone who paid 
Social Security. She went to work be- 
cause she wanted to be a teacher. and 
that is the frustration because no one 
thought about it until I took it to the 
law and there is a local decision. They 
are not doing 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 
lady is going to leave her job and go to 
do with the soldiers anymore than some 
right now who is struggling to get 
through college to go to teach 
them selves. Ladies and gentlemen. I 
will tell it to the 48 other States other 
than Texas. I have a local decision. 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 re-
tired Federal employees. They have 
all been into our office talking about the 
pension offset. That is going to cost us 
1$ billion if we are able to do some-
thing with it, and I would like to ad-
dress that. This is an outrageous 
thing 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 to do with a 
handful of public employees that are 
gaming the system in the State of 
Texas and even a smaller number in 
Georgia and other States have 
the same problem. Almost all these people 
have found a way around it, and yet 
you are going to punish Texas, and yet 
Georgia and other States have the 
same problem. All of these people are 
being punished because we have dealt 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 govern-
ment 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 hus-
band's Social Security or widow's bene-
ties 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 
problem 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 my 
self 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 
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 
Alexander 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, em-
ployees of automobile companies and 
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title II of the Social Security Act.

about the government pension offset under

ment 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 large number of Members thought that last battle was just because of Texas teachers, firefighters, 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 us, 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 does. It instructs the Committee on Ways and Means with instructions to report the same thing. The motion to recommit.

The SPEAKER pro tempore. Will the gentleman yield?

Mr. DOGGETT. I 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 frustrated when they find out they get penalized, even through the paid pension into Social Security. Or in the case of teachers 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 Mr. MCKEON. Mr. MCKEON has 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 Members 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. I say that the Social Security Administration cannot withhold tax refunds of people who cheat other taxpayers. It

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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 gentleman may inquire.

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 ayes 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 8 of rule X, 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—aye 293, noes 220, not voting 11, as follows:

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—aye 396, noes 28, not voting 10, as follows:

AYES—396

Mr. NUTTING—11

Mr. ABERCRUMBIE. Mr. Speaker, I demand an electronic vote.

The Speaker pro tempore. The vote was—aye 395, noes 28, not voting 10, as follows:

AYES—395
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.

Mr. YOUNG of Florida, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108-53) 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.)

Mr. BLAIR of Virginia, 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 leadership. The first recipient was George Washington.

Since that time, the award has evolved to include world leaders and humanitarian figures 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.
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
TABLE OF CONTENTS—The table of contents is as follows:

See 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. Gap 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

•HR 743 RS
See 404: Application of demonstration authority sunset date to new projects.
See 405: Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
See 406: Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
See 407: Availability of Federal and State work incentive services to additional individuals.
See 408: Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

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

Subtitle C—Technical Amendments

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

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 401. 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
ease 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 dur-
ing 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 ti-
tles;

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 bene-
iciary’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 para-
graph (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 bene-
fits by a representative payee occurs in any ease 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:

"(f) 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".

(e) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1382(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 (II)(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

(G) 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.”.

(2) MISUSE OF BENEFITS DEFINED.—Section
1631(a)(2)(A) of such Act (42
U.S.C. 1382(a)(2)(A)) is amended by adding at the
end the following new clause:

“(iv) For purposes of this paragraph, misuse of bene-
fits 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 Commissi-
ioner 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 Commissi-
oner makes the determination of misuse on or after Jan-
uary 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 (H) 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 (H); respectively (and adjusting the margination accordingly); and

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

(G) 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 Commis-
sioner 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 in-
clude a copy of any independent audit on the agency which
may have been performed since the previous certifi-
eation."

(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 rep-
resentative 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 pay-
able 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 re-

sults 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 re-
views 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)' and
(4) in subparagraph (C)(i)—

(A) by striking "or" at the end of sub-
clause (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 convic-
tion; 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 sub-
paragraph (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 subpar- graph (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 (H);

(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(c)(4)(A)."; and

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

"(xiv) Notwithstanding the provisions of section 582a 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(c)(4)(A);"

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

"(III) the location of 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.

(c) 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 "para-
graph (10)";
(3) in paragraph (6)(A)(ii), by striking "para-
graph (9)" and inserting "paragraph (10)"; and
(4) by inserting after paragraph (6) the fol-
lowing new paragraph:

"(7)(A) If the Commissioner of Social Security or a
court of competent jurisdiction determines that a rep-
resentative payee that is not a Federal, State, or local gov-
ernment 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 representa-
tive 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 indi-
vidual or such individual's alternative representative
payee:

"(B) The total of the amount certified for payment
to such individual or such individual's alternative rep-
resentative 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 So-
cial Security or a court of competent jurisdiction de-
determines that a representative payee that is not a
Federal, State, or local government agency has mis-
used 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 indi-
vidual or such qualified individual’s alternative rep-
resentative payee:

"(2) LIMITATION.—The total of the amount
paid to such individual or such individual’s alter-
native representative payee under paragraph (1) and
the amount paid under subsection (i) may not ex-
ceed the total benefit amount misused by the rep-
resentative 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 sec-
tion 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(H), 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 rep-
resentative payee that is not a Federal, State, or local gov-
ernment 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 (E) 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:

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"(3) Authority to redirect delivery of
benefit payments when a representative
payee fails to provide required account-
ing.—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 re-
port required by the Commissioner of Social Secu-
ritiy 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 re-
sides 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 indi-
vidual 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. 431. 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;",

(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;

(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(c)(2)(B) of such Act (42 U.S.C. 1320a–8(c)(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(c)(1)(A) of such Act (42 U.S.C. 1320a–8(c)(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.  

(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 (3)(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.

(n) 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 Ad-
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 REF-
ERENCE 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 Benefits 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 ap-
ppears; and

(3) in the matter following subparagraph (B),
by striking "the Health Care Financing Administra-
tion," 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); (e); 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 addi-
tion 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 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."

(e) 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 author-
ized 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 es-  tablished in the Treasury of the United States for  amounts so received or recovered. The amounts so ered-  ited, to the extent and in the amounts provided in advance  in appropriations Acts, shall be available to defray ex-  penses 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 rep-
resentative 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 Fed-
eral Disability Insurance Trust Fund, as determined ap-
propriate 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."

(c) 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 PAY-MENT SYSTEM IMPROVE-
MENTS

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 great-
er of $75 or the adjusted amount as provided pursu-
ant to the following two sentences after "subpara-
graph (B)"; and

(2) by adding at the end the following new sen-
tence: "In the case of any calendar year beginning
after the amendments made by section 304 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 ad-
just 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 representa-
tion 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 re-
duction 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 detail-
ing 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 (e), by
striking "conducted under subsection (a)" and in-
serting "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 ini-
tiate projects under the preceding provisions of this
section shall terminate on December 18, 2004.".
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."

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 de-
termed appropriate by the Commissioner of Social Secu-
rity; 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 ben-
efits under such title II or XVIII:"

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

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

(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 'dis-
abled beneficiary' means an individual—

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

"(B) who is receiving a cash payment de-
scribed in section 1616(a) of this Act or a sup-
plemenary payment described in section
212(a)(3) of Public Law 93–66 (without regard
to whether such payment is paid by the Com-
missioner pursuant to an agreement under sec-
tion 1616(a) of this Act or under section 212(b) of Public Law 93–66);

"(G) 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 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 Com-
missioner pursuant to an agreement under sec-
tion 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 pe-
nultimate 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 in-
serting "secure, maintain, or regain";

(3) EFFECTIVE DATE.—The amendments made
by this subsection shall apply with respect to pay-
ments 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 sen-
tence 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 determina-
tions 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 Com-
missioner 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 re-
spect to removals occurring after the date of the enact-
ment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-
QUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimi-
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(e) of the Social Security Act (42 U.S.C. 416(e)) is amended—

(1) by redesignating subclauses (A) through (G) 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 "(e)"; 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 (G) 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 (f) of subsection (c) or clause (f) 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 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(c)(7)(A) of such Act (42 U.S.C. 402(c)(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(c)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (1) 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. 424. 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. 425. 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

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in section 414(c) 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 AMEND-
MENT.—Section 1402(a)(5)(A) of the Internal Revenue
Code of 1986 is amended by striking “all of the gross in-
come” 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 re-
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 “So-
cial 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 con-
victed 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.

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 3-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 Amercorps 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. 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 (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 pe-

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 RE-
QUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL
REPRESENTATIVE PAYEES.—

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

(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 non-
profit social service agency (as defined in para-
graph (9))”;

(B) in paragraph (3)(F), by striking “com-
munity-based nonprofit social service agencies”
and inserting “certified community-based non-
profit social service agencies (as defined in para-
graph (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 non-
profit 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 follow- ing:

“(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)”;

(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 represent-
ative 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 com-
munity-based nonprofit social service agency (as de-
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 Com-
mittee 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 re-
views 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 107(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.”.

(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 REPRESENATIVE 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)”;

(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 MIS-
USED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the So-
cial Security Act (42 U.S.C. 405(j)) (as amended by sec-
tions 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 “para-
graph (10)”;

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

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

“(7)(A) If the Commissioner of Social Security or a
court of competent jurisdiction determines that a represent-
ative 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:

“(l) LIABILITY FOR MISUSED AMOUNTS.—

“(1) IN GENERAL.—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 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 fol-
lowing:

"(E) In any case in which the person described in sub-
paragraph (A) or (D) receiving payments on behalf of an-
other 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 indi-
vidual 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 indi-
vidual entitled to the payment, require that such person ap-
pear in person at a field office of the Social Security Ad-
ministration serving the area in which the individual re-
sides 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 enact-
ment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTA-
TIVE PAYEES.

(a) IN GENERAL.—Section 1110 of the Social Secu-
ity 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 Secu-
rit y Administration for purposes of conducting a statis-
tically significant survey to determine how payments made
 to individuals, organizations, and State or local govern-
ment 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 withhold 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 BENEFACTORIES.

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 In-
stitutions, 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 pe-
riod 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 im-
posed, and a Federal, State, or local law enforcement
agency has notified the Commissioner that such agen-
cy intends to pursue the individual by seeking arrest,
extradition, or prosecution, or
“(v) is violating a condition of probation or pa-
role imposed under Federal or State law, and a Fed-
eral, State, or local law enforcement agency has noti-
fied 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 sen-
tence 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 re-
spect 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 con-
nection with such offer. The Commissioner shall promul-
gate 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 sen-
tences, 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 dis-
barred 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 sec-
tion from appearing before the Social Security Administra-
tion 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 representa-
tive 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 Administra-

tion, or to a member of the family of such an officer or employee or contractor.”.

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

(a) IN GENERAL.—Section 1140(a)(1) of the Social Se-
curity 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’, ‘Death Bene-
fits Update’, ‘Federal Benefit Information’, ‘Funeral Expenses’, or ‘Final Supplemental Plan’,” and by in-
serting “‘CMS’,” after “‘HCFA’”;

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

(3) in the matter following subparagraph (B), by striking “the Health Care Financing Administra-
tion,” each place it appears and inserting “the Cen-
ters 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:

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“(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 con-
stitute 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 re-
turns and return information to Social Security Adminis-
tration 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 AS-
SESSMENT 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 insur-
ance 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 re-
cover 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 ex-
cluding"; 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 re-
cover 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 enact-
ment of this Act, and shall be effective with respect to over-
payments under titles II, VIII, and XVI of the Social Secu-

(c) EFFECTIVE DATE.—The amendments and repeal
made by this section shall take effect on the date of enact-
ment of this Act, and shall be effective with respect to over-
payments under titles II, VIII, and XVI of the Social Secu-

ry 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 pe-

iod 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, 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
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.—
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.”.

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 'dis-
abled beneficiary' means an individual—

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

"(B) who is receiving a cash payment de-
scribed in section 1616(a) of this Act or a sup-
plementary payment described in section
212(a)(3) of Public Law 93–66 (without regard
to whether such payment is paid by the Commiss-
ioner 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 pe-
nultitude 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 (B), 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”;

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(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 HOME-

LAND SECURITY.—Section 202(n) of the Social Secu-

rity Act (42 U.S.C. 402(n)) (as amended by sub-

section (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 individ-

uals 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 re-

spect 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 (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".

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

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVI-
SORY 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 (includ-
ing traveltime) during which the member is attending meet-
ings 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 trav-
el 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 po-
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 Com-
missioner 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 di-
vorced 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 insert-
ing “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 em-
ployed 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)”;

(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

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“(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 sub-
division 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 serv-
ice”; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking “Subpara-
graph (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 re-
spect to monthly periodic benefits based in whole or in part
on service which constituted ‘employment’ as defined in sec-
tion 210 pursuant to an agreement executed with the Com-
missioner 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 em-
ployed in the service of the State (or political subdivi-
sion 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 de-
fin ed).”.

(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 Secu-

rity 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 con-

tract for such service entered into prior to September


SEC. 419. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST

FUNDS IN SATISFACTION OF OUTSTANDING OBLIGA-

TIONS.—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 In-

surance Trust Fund; and

“(3) $173,306,134 to the Federal Hospital Insur-

ance 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".

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(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 busi-
ness 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 deduc-
tions;".

(b) INTERNAL REVENUE CODE OF 1986 AMEND-
MENT.—Section 1402(a)(5)(A) qf the Internal Revenue
Code of 1986 is amended by striking “all qf the gross in-
come” 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 busi-
ness 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 RE-
TIREMENT AND SURVIVORS' IMPROVEMENT

(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”.

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(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”.

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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-
“(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 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 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 nonrecurring 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

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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. 1382(f)(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 Se-
curity of a State agency determination under this para-
graph shall be made before any action is taken to implement
the determination.

“(2)(A) In carrying out paragraph (1), the Commis-
sioner 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 sub-
section; 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.”.
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
SOCIAL SECURITY PROTECTION ACT OF 2003

OCTOBER 29, 2003.—Ordered to be printed

Mr. GRASSLEY, from the Committee on Finance, submitted the following

REPORT

[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.

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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 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 "sunsetted" 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-
individual 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

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:
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

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<tr>
<th>By Fiscal Year, in Millions of Dollars</th>
<th>2004</th>
<th>2005</th>
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<td><strong>CHANGES IN DIRECT SPENDING (OUTLAYS)</strong></td>
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<td>183</td>
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**CHANGES IN REVENUES**

| Title IV: Miscellaneous and Technical Amendments |      |      |      |      |      |      |      |      |      |      |
| On-budget                                      | -2   |      |      |      |      |      |      |      |      |      |
| Off-budget                                      | 1    | 1    | 2    | 2    | 3    | 3    | 4    | 4    | 5    |      |
| Total                                          | -1   | 1    | 2    | 2    | 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  |
| Total                                          | 10   | 31   | -14  | -28  | -34  | -78  | -105 | -104 | -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    | 6    | 7    |      |      |
| Total                                          | 19   | 20   | 26   | 23   | 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

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<td>Authority to Recuse Certain Misused Benefits:</td>
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TABLE 2.—ESTIMATED EFFECTS OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2003, BY MAJOR PROVISION—Continued

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<td>OASDI Revenues</td>
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<td>Other Revenues</td>
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<td>Clarification of Tax Treatment of Individual Work Plans</td>
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<td>Total Changes in Revenues:</td>
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<td>Total</td>
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<td>CHANGES IN SPENDING SUBJECT TO APPROPRIATION (OUTLAYS)</td>
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<td>SSI Administrative Expenses</td>
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<td>Total Changes</td>
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**Notes:** Details may not add to totals because of rounding.

OASDI = Old-Age, Survivors, and Disability Insurance (Title 8 of Social Security Act); SSI = Supplemental Security Income (Title XVI); GP = government pension offset; HI = Hospital Insurance (Title XIX).

* Less than $500,000.

* Off-budget.
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-

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1 All 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.
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 IJMRA, 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).

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

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, appoint 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, appoint the following individuals to the Commission on Review of Overseas Military Facility Structure of the United States: Al Corneila, 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.


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 conference of the two Houses, or by order of the Senate.

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 and reduce food stamp benefits 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:

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.

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 benefits 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 knowledge withholding of material facts.

Sec. 202. Issuance by Commissioner of Social Security of 72-hour temporary knowledge 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, or 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.

CONGRESSIONAL RECORD—SENATE S16159

December 9, 2003
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

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 2000

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 clarification concerning 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 demand 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 exception.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to re-employment benefits.

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

Sec. 423. Technical corrections relating to retirement benefits.

Sec. 424. Technical corrections of outdated references.

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

(1) TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

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

(i) 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—

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

(2) is an individual who, for any month during which misuses occur, 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 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 subsection (B).

(ii) Title III Amendments.—

(1) Reissuance of Benefits.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(B) 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 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.

(iii) Title VIII Amendments.—

(1) Reissuance of Benefits.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended by adding at the end the following new subparagraph:

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

"(14) For purposes of this paragraph, misuse of benefits under this title, title II, or title VIII that a representative payee receives payment under this title for the use and benefit of another person converts such payment 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.

(iv) Title XVI Amendments.—

(1) Reissuance of Benefits.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended by adding at the end the following new subparagraph:

"(16) For purposes of this paragraph, misuse of benefits under this title, title II, or title VIII that a representative payee receives payment under this title for the use and benefit of another person converts such payment 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.

(2) Exclusion of Reissued Benefits From Resources.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

"(B) by inserting at the end the following new paragraph:

"(i) In any case in which a representative payee is a certified community-based nonprofit social service agency that is not providing benefits based on individual income for purposes of this title, the Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.

(iii) Effective Date.—The amendments made by the preceding provisions shall apply to any case of misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

(3) Title XVI Amendments—

(1) Title XVI Amendments.—

(3) Technical Amendments.—Section 809(a) of such Act (42 U.S.C. 1307(a)) is amended, in the first sentence, by striking "for his or her self-employment income" and inserting "for his or her use and benefit".

(1) Title XVIII Amendments.—

(3) Technical Amendments.—Section 431 of the Social Security Act (42 U.S.C. 440(j)) is amended—

"(B) in paragraph (3)(C)(vi), by striking "a community-based nonprofit social service agency which is certified by the Social Security Administration as a qualified organization" and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

"(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is certified by the Social Security Administration as a qualified organization" and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))".
payee and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(1D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following 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 of Social Security that it is in compliance in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee. A certified community-based nonprofit social service agency 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 XIX) 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 in which the representative payee was changed in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee.

"(11) EFFECTIVE DATE. - The amendments made by this subsection shall have effect on December 9, 2003.

"(b) PERIODIC ONSITE REVIEW.-

"(1) TITLE II AMENDMENT.- Section 205(j)(6) of the Act (42 U.S.C. 405(j)(6)) is amended by adding at the end of such section the following subclauses (i) and (ii):

"(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 in which the representative payee was changed in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee.

"(c) by citing paragraph (10) as paragraph (13) and inserting "or agency as a representative payee under this section, section 205(j) or section 1631(a)(2) in any case in which-"
 Fior amendments, paragraph (A) and inserting the following:

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

(c) TITLE XVI AMENDMENTS.- Section 1631(a)(2)(B) of such Act (42 U.S.C. 1385(b)(1)(A)(i)) is amended-

(1) in clause (i), by striking "and" at the end of subparagraph (B)(i)(VI); and

(2) in subsection (b), by adding at the end the following new subparagraphs:

(B) by striking the period at the end of clause (ii) and inserting a semicolon;

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

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

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

(2) in clause (iv), by adding at the end the following new subparagraphs:

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

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

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

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

"such person is a person described in subparagraph (B);"

(iii) by inserting 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; and

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

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

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(B) by inserting at the end the following new subparagraphs:

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

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

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(III) by inserting at the end the following new subparagraphs:

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(III) by inserting at the end the following new subparagraphs:

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(III) by inserting at the end the following new subparagraphs:

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(III) by inserting at the end the following new subparagraphs:

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(III) by inserting at the end the following new subparagraphs:

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."

(3) in subparagraph (C)(ii)(VI), by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

(4) in subparagraph (C)(iii), by striking "section 805(a)(2)" and inserting "section 805(a)(2)(B)."

(2) in subsection (b), by adding at the end the following new clauses:

(I) in clause (i), by inserting "and" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(II) by striking "or" at the end of subparagraph (B)(i)(VI) and inserting a semicolon;

(III) by inserting at the end the following new subparagraphs:

(A) by striking "section 804(a)(2)" and inserting "section 804(a)(2)(B)"; and

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

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

"such person is a person described in subparagraph (B);"

(iv) by inserting the following in the text preceding clause (i)="such person is described in section 804(a)(2)."
shall be treated as an overpayment of benefits for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is liable for the amount misused.

In any case in which the person described in paragraph (1) or (2) 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 United States field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments."

(b) \r\nTITLE VIII AMENDMENTS.- Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended by redesigning paragraphs (1) and (4) as paragraphs (4) and (5) respectively and by inserting after paragraph (2) the following new subparagraph:

"(E) \r\nIn 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 (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual that such person is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is liable for the amount misused.

In any case in which the person described in paragraph (1) or (2) receiving payments on behalf of another 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 that such person is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is 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 for which the representative payee is liable for the amount misused.
or payments under title XVI that the person knows through appears and
S16164 that the withholding of such disclosure is with such omission is false or misleading or
under title II or benefits or payments under the amount of monthly insurance benefits
tion of any initial or continuing right to or otherwise withholds for the truth, or
(‘) omits from statement or representation of such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determina-
tion for such use, or otherwise withholds information or allows to be with-held to the individual: and
(5) in paragraph (3), by adding at the end the following new paragraph:
(‘) Notwithstanding the provisions of section 52a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Rev-
ue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any information to the Federal or State Enforcement offi-
cer, upon the written request of the officer, with the current address, Social Security number, and photograph of any beneficiary identified in section 16164 of title 42, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying in-
formation as reasonably required by the Commissioner to establish the unique iden-
tity of the beneficiary, and notifies the Com-
mis-sioner that-
(i) the beneficiary-
(‘) is described in clause (iv) or (v) of paragraph (1)(A); and
(‘) has information that is necessary for the officer to conduct the officer's official duties; and
(‘) the location or apprehension of the beneficiary is within the officer’s official duties.:"
(‘) 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 regula-
tions governing the reinstatement of, an individual who has been dis-packed or suspended from any court or bar to which he or she was previously admitted to practice in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualified, as a non-attorney repre-
sentative any attorney who has been dis-
barred or suspended from any court or bar to
which he or she was previously admitted to practice. A representative who has been dis-
qualified or suspended pursuant to subsection (c) of section 1129A of the Social Security Act as a representative until full restitution is made to the claimant and, thereafter, may be con-
considered for reinstatement only under such rules as the Commissioner may prescribe.:"

[SEC. 205. REFUSAL TO RECOGNIZE CERTAIN REPRESENTATIVES.

[Section 208(a)(I) of the Social Security Act (42 U.S.C. 1320b-10) is amended by strik-
ing after the second sentence the following:

Notwithstanding the preceding sentences, the Commissioner, after due notice and op-
portunity for hearing, may refuse to recognize as a representative, and may dis-
qualify a representative already recognized, any attorney who has been dis-
barred or suspended from any court or bar to
to which he or she was previously admitted to practice. A representative who has been dis-
qualified or suspended pursuant to subsection (c) of section 1129A of the Social Security Act as a representative until full restitution is made to the claimant and, thereafter, may be con-
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. 1381 et seq.) is amended by in-
serting after section 1129A the following new section:

I’ATTEMPTS TO INTERFERE WITH ADMINI-
STRA-TION OF SOCIAL SECURITY ACT.

[SEC. 112B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) at-
ttempts to intimidate or impede any officer, employee, or contractor of the Social Secu-
rity Administration, or any employee of a disability determination serv-
vice or any other individual designated by the Commissioner of Social Security to act in an official capacity to carry out a duty under this Act, or in any other way cor-
ruptly or by force or threats of force (including any threatening letter or communica-
tion) obstructs or impedes, or attempts to obstruct or impede, the due administration of the 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 $1,000, imprisoned not more than 1 year, or both. In this sub-
section, 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, in any proceeding with respect to a violation of law committed by any such employee, or to a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, the defendant make restitution to the Social Security Administration.  

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.  

(a) IN GENERAL.—Section 1104(a)(1) of the Social Security Act (42 U.S.C. 1395d-10(a)(1)) is amended—

(1) in subparagraph (B), 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 Medical Review,” and by inserting “CMS,” after “HCFCA;” and  

(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 enactment of this Act.  

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY IDENTITY PROTECTION ISSUES.  

(a) AMENDMENTS TO TITLE II.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 904(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 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 1382a(f)(1)(B)(iv),” after “benefit amounts under section 1382a(f)(1)(B)(iv),” except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been received 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.”;  

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the issuance and enforcement of orders of restitution under this section. In so applying such sections, the Social Security Administration shall be considered the victim.  

SEC. 208. AMENDMENTS TO PAYMENT SYSTEM IMPROVEMENTS.  

(a) AMENDMENTS TO TITLE XVI.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383d-10(d)(2)) is amended—  

(1) in subparagraph (A), in the matter preceding clause (i), by striking “ Cocina, Miami, and” and inserting “Miami, and”;  

(2) in subparagraph (C), by striking “subparagraphes of subparagraph (B)” and inserting “subparagraph (B)” and  

(3) by striking subparagraphs (B) and (C) and inserting “subsection (a)”; and  

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the issuance and enforcement of orders of restitution under this section. In so applying such sections, the Social Security Administration shall be considered the victim.  

(c) AMENDMENTS TO TITLE XVII.—Section 1632 of such Act (42 U.S.C. 1383d-10(e)) is amended—  

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

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

“(b) 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, the defendant make restitution to the Social Security Administration.  

“(2) Sections 3612, 3636, 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) The court shall state on the record the reasons therefor.”.
such fee otherwise required by subparagraph (B) shall be collected and deposited in the Treasury in a separate fund created for the purpose.

The amount of such fee shall be deposited in such fund for the following purposes:

(1) Expenses of the Secretary for purposes under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as funds become available for such purposes, in the amount provided in advance in appropriations Acts.

(2) Such amounts shall be available for expenses incurred by the Secretary to carry out this section.

(3) Such amounts shall be available for expenses incurred by the Commissioner of Social Security to carry out this section.

(4) Such amounts shall be available for expenses incurred by the Comptroller General in conducting a study regarding fee-withholding under section 1127(a).
section 1616(a) of this Act, or under section 212(b) of Public Law 93-66; 

I="(C) who, pursuant to section 1616(b) of this Act, is considered to be receiving benefits under title XVI of this Act, or

I="(E) who, pursuant to section 1616(b) of this Act, is considered to be receiving benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.

[(G) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN CANSFUL EMPLOYMENT.- Section 1193(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking "secure or regain" and inserting "maintain, or regain".

[(D) 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 CLARIFICATION 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 clause (b) shall be treated, for purposes of section 1141(d)(6)(B)(ii)(I) of the Internal Revenue Code of 1986, as an individual-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. 1291).

[(c) Title B—Miscellaneous Amendments

SEC. 411. AMENDMENT TO TRANSFER REIMBURSEMENT IN REQUIREMENTS FOR CHANGE 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 a transcript, 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 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. 1291).

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" and inserting "and".

[(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n) of the Social Security Act shall apply with respect to applications for benefits under the Act made by an individual who was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security)

[(1) the prior husband continued to remain institutionalized up to the time of his death, and

[(2) 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 412(k) of such Act (42 U.S.C. 412(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c) or clause (E) of subsection (g)".

[(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. 413. CLARIFICATION RESPECTING THE FICA AND FEDERAL INCOME 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 "taxes or contributions for similar purposes or purposes of a law exempting 'exclusively to the laws applicable to'

SEC. 414. 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. 415. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

[(a) In General.—Section 103 of title 42 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

I="(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 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(c)(4)(A) of the Social Security Act (42 U.S.C. 402(c)(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) WIDOW'S INSURANCE BENEFITS.- Section 202(f)(1)(A) of such Act (42 U.S.C. 402(f)(1)(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 FATHERS 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 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(b)(2), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof).

[(g) 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

[(h) 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.—

[(a) IN GENERAL.— Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by striking "Secretary" each place it appears and inserting "Commissioner of Social Security"; and

[(b) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO DETERMINATION OF 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 striking "in the case of a minister", and inserting "in any case in which any portion of the last 60 months of such service (other than under subparagraph (i)(C) thereof) and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or under section 211(a)(6)(B) of such Act":

[(b) in paragraph (3) inserting "(B) by striking "paragraph (19) of section 241 (a) or under section 241(a)" and inserting "Commissioner of Social Security".

Title II—PROVISIONS RELATING TO THE SOCIAL SECURITY PROGRAM

SEC. 423. TECHNICAL CORRECTIONS OF OUT-OF-DATE TEST.

[(a) CORRECTION OF TERMINOLOgy AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.- Section 402(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 211(a)(6)(B) of such Act";

[(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (42 U.S.C. 1227(a)) (other than paragraph (1)(C) thereof) and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (42 U.S.C. 1227(a)) (other than paragraph (1)(C) thereof) or under section 211(a)(6)(B) of such Act";

[(5) in paragraph (3) inserting "(B) by striking "paragraph (19) of section 241 (a) or under section 241(a)" and inserting "Commissioner of Social Security".

Title II—PROGRAM PROTECTIONS

Title IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

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 one year of 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 RELATIONS

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 under up-front application for 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 fees for work in Social Security Administration.

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 disability insurance benefits based on earnings.

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 one year of 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.

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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 work plan under the Ticket to Work and Self-Sufficiency Program.

Sec. 416. Coverage under divided retirement systems for public employees.

Sec. 417. Amendment of divided retirement requirements.

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

Sec. 419. Post-1956 Military Wage Credits.

Sec. 420. Seclusion from income for certain individuals.

Sec. 421. Technical correction relating to self-representation.

Sec. 422. Technical correction respecting self-representation.

Sec. 425. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 426. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 427. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 428. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 429. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 430. Exclusion from income for certain individuals.

Sec. 431. Exception to retrospective monthly accounting for certain individuals.

Sec. 432. Modification of dedicated account requirements.

Sec. 435. Exception to retrospective monthly accounting for certain beneficiaries.

Sec. 436. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 437. Amendment of self-representation with respect to the determination of misuse of benefits in a case in which a representative payee misuses all or part of an individual's benefit.

Sec. 438. Monthly treatment of uniformed service pay and annuity.

Sec. 439. Update of resource limits.

Sec. 440. Authority to reissue benefits misused by organizational representative payees.

(a) TITLE II AMENDMENTS

(1) REISSUANCE OF BENEFITS. - Section 203(g)(2) of the Social Security Act (42 U.S.C. 403(g)(2)) is amended by inserting after the first sentence the following: "In any case in which a representative payee that

(2) MISUSE OF BENEFITS DEFINED. - Section 203(g)(2) of such Act (42 U.S.C. 403(g)(2)) is amended by adding at the end the following: "(b) 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 subsection."

(2) MISUSE OF BENEFITS DEFINED. - Section 203(g)(2) of such Act (42 U.S.C. 403(g)(2)) is amended by adding at the end the following: "(b) 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 subsection."

(b) TITLE VIII AMENDMENTS. - Section 205(j) of the Railroad Retirement and Survivors Improvement Act of 2001 is amended by inserting at the end the following: "(2) MISUSE OF BENEFITS DEFINED. - Section 205(j)(1) of such Act (42 U.S.C. 405(j)(1)) is amended by adding after the first sentence the following: "In any case in which a representative payee that

(3) MISUSE OF BENEFITS DEFINED. - Section 205(j)(1) of such Act (42 U.S.C. 405(j)(1)) is amended by adding at the end the following: "(b) 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 subsection."

(c) EFFECTIVE DATE. - The amendments made by this section shall apply to any case of misuse of benefits by a representative payee that occurs after January 1, 2003.
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. 1385a(a)(2)) is amended by adding at the end the following:

"(v) 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;"

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

(b) PERIODIC ONSITE REVIEW.

(1) TITLE XVI 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 may 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, but only if the person or agency as a representative payee under this section.

(C) the number of cases in which the representative payee is an agency that serves in that capacity with respect to 15 or more such individuals;

(D) the results of such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include -

(1) the number of such reviews;

(2) the results of such reviews;

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

(4) 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;"

(2) REPORT. - Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committees 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 such reviews and any corrective action taken or planned to be taken to correct the problems, and shall include:

(1) the number of the reviews;

(2) the results of such reviews;

(3) the number of cases in which the representative payee was changed and why;
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"(III) the location or apprehension of such person is within the officer's official duties.; "

(3) in subparagraph (C)(i)(II)-

(A) by striking "paragraph (B)(i)(IV), " and inserting "paragraph (B)(i)(VI); " and

(B) by striking "section 1631(a)(3)(B)(i)(IV)", and inserting "section 1631(a)(2)(B)(i)(VI); " and

(C) by striking (C)(ii)-

(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 inserting after subclause (C) the following:

"(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such conviction was not appropriate notwithstanding such conviction; or

(V) such person is person described in section 205(d)(1)(A)(i);"

(b) TITLE VII 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 redesigning subparagraph (D) as subparagraph (E), and

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

"(D) such person has previously been convicted as described in any other offense under Federal or State law which resulted in imprisonment for more than 1 year;"

(2) in paragraph (B)(i)(IV),

(A) by striking "clause (i)(IV) " and inserting "clause (i)(VI) ;" and

(B) by adding at the end of paragraph (B)(i)(IV) and inserting "(IV) in clause (ii), (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 inserting after subparagraph (C) the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the provisions of Federal or State law (other than section 636 of the Internal Revenue Code of 1986 and section 1106(c) of this Act) are not applicable to such person; or

(V) such person is a person described in section 1611(e)(4)(A);"

(3) by adding at the end of section 205(j)(1)(B)(ii)(VI) " and ";

(4) in subparagraph (C)(i)-(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 inserting after subparagraph (C) the following:

"(IV) such person has previously been convicted as described in section 1611(e)(4)(A); and"

(2) in section 1611(e)(4)(A),

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

(B) by striking "clause (i)(IV) " and inserting "clause (i)(VI) ;" and

(C) by adding at the end of paragraph (B)(i)(IV) and inserting "(IV) in clause (ii), (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 inserting after subparagraph (C) the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the provisions of Federal or State law (other than section 636 of the Internal Revenue Code of 1986 and section 1106(c) of this Act) are not applicable to such person; or

(V) such person is a person described in section 1611(e)(4)(A);"

(3) in subparagraph (C)(ii) -(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 inserting after subparagraph (C) the following:

"(IV) such person has previously been convicted as described in any other offense under Federal or State law which resulted in imprisonment for more than 1 year;"

(4) by striking paragraph (B) -(A) by striking "paragraph (B)(i)(IV), " and inserting "paragraph (B)(i)(VI); " and

(B) by adding at the end of paragraph (B)(i)(IV) and inserting "(IV) in clause (ii), (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 inserting after subparagraph (C) the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the provisions of Federal or State law (other than section 636 of the Internal Revenue Code of 1986 and section 1106(c) of this Act) are not applicable to such person; or

(V) such person is a person described in section 1611(e)(4)(A);"

(5) by striking (G) (B) and the amount certified for payment to such individual or such individual's alternative representative payee.

(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 redesigning subparagraph (D) as subparagraph (E), and

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

"(D) such person has previously been convicted as described in any other offense under Federal or State law which resulted in imprisonment for more than 1 year;"

(2) in paragraph (B)(i)(IV),

(A) by striking "clause (i)(IV) " and inserting "clause (i)(VI) ;" and

(B) by adding at the end of paragraph (B)(i)(IV) and inserting "(IV) in clause (ii), (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 inserting after subparagraph (C) the following:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the provisions of Federal or State law (other than section 636 of the Internal Revenue Code of 1986 and section 1106(c) of this Act) are not applicable to such person; or

(V) such person is a person described in section 1611(e)(4)(A);"

(c) TITLE VII AMENDMENTS.- Section 807 of such Act (42 U.S.C. 1007) is amended as amended by section 101(a) (2) is amended further by adding at the end of subsection (b)(2)-(A) by redesigning paragraphs (7), (8), and (9) of subparagraph (B), and

(B) in paragraph (2)(G)(i)-(I),

(A) by striking "paragraph (9) " and inserting "paragraph (10) ;" and

(B) by adding at the end of paragraph (2)(G)(i)-(I) 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 under subparagraph (A) and the amount certified for payment under paragraph (3) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

"(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 equal to the recovered amount for payment under subparagraph (3) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

"(C) TITLE VIII AMENDMENTS.- Section 807 of such Act (42 U.S.C. 1007) is amended further by adding at the end of subsection (b)(2) -(A) by redesigning paragraphs (7), (8), and (9) of subparagraph (B), and

(B) in paragraph (2)(G)(i)-(I),

(A) by striking "paragraph (9) " and inserting "paragraph (10) ;" and

(B) by adding at the end of paragraph (2)(G)(i)-(I) 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 under subparagraph (A) and the amount certified for payment under paragraph (3) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

"(D) If any other benefit that was paid to such representative payee under this title to 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.

"(E) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount equal to the recovered amount for payment under subparagraph (3) may not exceed the total benefit amount misused by the representative payee with respect to such individual."
"(2) LIMITATION.- The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (i) 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. 13281(a)(2)) as amended by section 101(b)(3) is amended further as follows:

(i) in subparagraph (G)(i)(II), by striking "section 205(2)" and inserting "section 205(2)(B)" and

(ii) by striking subparagraph (H) and inserting the following:—

"(H) 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 an amount of benefits paid to such 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 the law relating to the recovery of the overpayment. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make an amount equal to any amount that was 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 take effect 180 days after the date of the enactment of this Act.

SEC. 110. CIVIL PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONCEALMENT OR WITHHOLDING OF MATERIAL FACTS.

(a) IN GENERAL.—Paragraph (1) of subsection (a) of section 102(a) (1)(B) of chapter 3 of title II of the Social Security Act (42 U.S.C. 405(b)(1)(F)) as added by section 102(a)(2)(A) and (B) is amended—

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

(2) by inserting after paragraph (3) the following:

"(E) in any case in which the person described in subparagraph (A) or (B) 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 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. 1320a-8(h)) is amended—

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

(2) by inserting after paragraph (3) the following:

"(D) AUTHORITY TO DIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—

(a) TITLE.—Section 1112(a)(3) of the Social Security Act (42 U.S.C. 1320a-8(c)) as amended by sections 102(a)(1)(B) and 105(a)(2) is amended—

(1) by redesignating paragraphs (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 (B) 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 in which the individual resides in order to receive such payments."

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 13281(a)(2)) as amended by section 101(b)(3) is amended further as follows:

(i) in subparagraph (G)(i)(II), by striking "section 205(2)" and inserting "section 205(2)(B)" and

(ii) by striking subparagraph (H) and inserting the following:—

"(H) 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 an amount of benefits paid to such 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 the law relating to the recovery of the overpayment. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make an amount equal to any amount that was 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 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. 1320a-10) is amended by adding at the end the following:

"(c) Notwithstanding section (a)(2) of the amount appropriated to carry out sub-section that section 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.

(b) TITLE B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONCEALMENT OR WITHHOLDING OF MATERIAL FACTS.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8a) 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 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, that the person knows or should know is false or misleading, may, after furnishing notice to the person and the qualified individual, request the Commissioner of Social Security or a court of competent jurisdiction to withhold such disclosure if the person knows or should know is false or misleading that the withholding of such disclosure is misleading, shall be subject to.

(b) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129(a)(3) of such Act (42 U.S.C. 1320a-8a(3)) is amended—

(1) by striking "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation in the first sentence of such a statement or representation referred to in subparagraph (A) or (D)" and

(2) by adding a new subparagraph (E) to read as follows:

"(E) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation in the first sentence of such a statement or representation referred to in subparagraph (A) or (D)" and

(c) CONFORMING AMENDMENTS.—

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

(2) Section 1129(b)(1)(B) of such Act (42 U.S.C. 1320a-8a(3)(B)) is amended by striking "in the case of amounts recovered arising out of a determination relating to title VII or XVI, " and inserting "in the case of any amounts recovered arising out of such a determination relating to title VII or XVI, " and

(3) Section 1129(c)(1)(A) of such Act (42 U.S.C. 1320a-8a(3)(A)) is amended by striking "statement or representation referred to in such a statement or representation or such action" and inserting "violation occurred".
SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACQUIT CLAIMANTS OF PORTS 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 enactment of this Act, the Commissioner of Social Security implements a centralized computer filing of 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(a)(1) of the Social Security Act (42 U.S.C. 402(a)(1)) is amended—

(1) in paragraph (1), by striking "or parole" 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 pe- riod 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 to which he or she is subject to commit the crime for which he is subject to commit, 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 extradition, arrest, prosecution, or incarceration;";

(b) In General.- Section 202(a)(2)(B) of the Social Security Act (42 U.S.C. 402(a)(2)(B)) is amended by striking "or parole" and all that follows and inserting the following:

"and all such months.";

(c) Effective Date.- The amendments made by subsection (b) 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 TO INDIVIDUALS AS CLAIMANTS OR REPRESENTATIVES.

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

(1) in subsection (a), by striking the end and inserting the following:

"(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 offers 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,

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

(B) Paragraph (A) shall not apply to any offer to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI, or a person, corporation, or entity 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 CONNECTION WITH A CLAIM ARISING UNDER TITLE II OR TITLE XVI."

CONFORMING AMENDMENT.- Section 206(a)(1) of the Social Security Act (42 U.S.C. 402(a)(1)) is amended by inserting after the second sentence the following:

Notwithstanding the preceding sentence, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative 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 or who has been disqualified from participating in or appearing before any Federal program or agency.

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

Section 206(a)(1) of the Social Security Act (42 U.S.C. 402(a)(1)) is amended by inserting after the second sentence the following:

The Commissioner of Social Security shall promulgate 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. 206. CRIMINAL PENALTY FOR CORRUPT OR MISLEADING COMMUNICATION TO CLAIMANTS OR REPRESENTATIVES UNDER TITLE II.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128A the following:

ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

"Sec. 1129D. 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 title, or to prevent any officer, employee, or contractor of 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."
(a) AMENDMENTS TO TITLE II.- Section 208(b) (42 U.S.C. 422(c)) is amended by adding at the end the following:

"(2) in subparagraph (B), by striking "208(b)(3)(B)" and inserting "208(b)(3)(B) and 208(b)(3)(C)"; and

(b) EFFECTIVE DATE.- The amendments made by this subsection shall apply to reports made after December 31, 2003.

SEC. 210. INFORMATION FOR ADMINISTRATION OF PROVISIONS RELATED TO NON-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 4975(e)(1) of the Internal Revenue Code of 1986 (relating to prohibited transactions by employee benefit plans)) that is not an insured plan, if the plan is not an individual retirement plan (as defined in section 4975(c)(1) of such code), the report shall be submitted to the Secretary of the Treasury on a form prescribed by the Secretary of the Treasury."

(b) DISCLOSURE.- Section 6101((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 inserting "and";

(2) in subparagraph (C), by striking the period and inserting "; and";

(3) by adding at the end the following: 

"(D) any designated distribution described in the second sentence of section 6901(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 subsection shall apply to distributions made after December 31, 2003.

SEC. 211. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS

(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 a current benefit under some individual under a program described in subsection (e) that is paid when regularly due to any other program specified in that subsection.

(2) EXCEPTION.—Paragraph (1) shall not apply if—

(A) the amount of the benefit payable to the person for that month; or

(B) the amount equal to 10 percent of the person’s income for that month (including such monthly benefit excluding payments under any other program specified in that subsection); or

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after December 31, 2003.
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 pro-

vided 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 So-

cial Security Protection Act of 2003 take effect, the following procedures shall be followed: (1) An attorney shall be required to file pro-

ceeding or 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 pre-

viously adjusted amount that would have been in effect for December of the preceding year, but for the adjust-

ment made by this section shall apply with respect to fees assessed under this subsection, and (2) an

adjustment of $75 shall not be required for attorneys who assess fees pursuant to paragraph (2)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits with respect to fee assessments or other payments with respect to fee assessments pursuant to this section that are made after January 1, 2004.

TITLES 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 SUBJECT TO TITLE II.

Section 234(d)(2) of the Social Security Act (42 U.S.C. 434(d)(2)) is amended—

(1) by striking the first sentence; and

(2) by striking "FINAL" and inserting "FINAL".

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE UNDER TITLE V OF THE 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. 434" et seq." and inserting "42 U.S.C. 434 note" and the requirements of section 1148 of such Act (42 U.S.C. 1305 note) 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(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(1) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—(A) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the program under which Federal work incentives are provided under title XVI of such Act that are made after January 1, 2004.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to Federal work incentives described in this section for which payment is made by the Commissioner pursuant to an agreement under section 1616(a) of the Social Security Act (42 U.S.C. 1382a(a))."

(3) AN AMENDMENT TO TITLE II OF THE SOCIAL SECURITY ACT.

Amend title II of the Social Security Act (42 U.S.C. 401 et seq.) by striking "16175" and inserting "16175", except that—

(1) the amount payable under section 212.1(b) of the Social Security Act (42 U.S.C. 401(b)) 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 adjustment made by this section shall apply to benefits with respect to fee assessments or other payments with respect to fee assessments pursuant to this section that are made after January 1, 2004.

TITLES 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 SUBJECT TO TITLE II.

Section 234(d)(2) of the Social Security Act (42 U.S.C. 434(d)(2)) is amended—

(1) by striking the first sentence; and

(2) by striking "FINAL" and inserting "FINAL".

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE UNDER TITLE V OF THE 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. 434" et seq." and inserting "42 U.S.C. 434 note" and the requirements of section 1148 of such Act (42 U.S.C. 1305 note) 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(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(1) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—(A) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the program under which Federal work incentives are provided under title XVI of such Act that are made after January 1, 2004.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to Federal work incentives described in this section for which payment is made by the Commissioner pursuant to an agreement under section 1616(a) of the Social Security Act (42 U.S.C. 1382a(a))."

(3) AN AMENDMENT TO TITLE II OF THE SOCIAL SECURITY ACT.

Amend title II of the Social Security Act (42 U.S.C. 401 et seq.) by striking "16175" and inserting "16175", except that—

(1) the amount payable under section 212.1(b) of the Social Security Act (42 U.S.C. 401(b)) 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 adjustment made by this section shall apply to benefits with respect to fee assessments or other payments with respect to fee assessments pursuant to this section that are made after January 1, 2004.
Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENTS IN BAD 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 "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. NON-ADMISSION 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) by redesignating clauses (A) through (C) of clause (6) as clauses (i) through (iii), respectively;

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

(3) in clause (F) (as redesignated), by inserting "or the Secretary of Homeland Security" after "the Attorney General";

(4) in paragraph (1) (as amended by paragraphs (3) and (4)), by striking "Deportation" and inserting "removal";

(5) in paragraph (2), by striking "paragraph (4) (D) of section 241(a) of the Immigration and Nationality Act (other than subparagraph (19))", and inserting "section 241(a) of the Immigration and Nationality Act (other than under subparagraph (19) of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1) (C) of such section) or section 212(a)(6)(A) of such Act)";

(6) in paragraphs (2) and (3) of section 241(a) of the Immigration and Nationality Act (relating to securing, maintaining, or regaining), by inserting at the end the following:

"(D) the prior husband was institutionalized for a period of 5 years or more, or its allies shall have been deposed under such subparagraph (19) and inserting "paragraph (19) 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 (6) (D)";

and

(4) in paragraph (3) (as amended by paragraph (2)) of such subsection, by striking "241(a) (other than under paragraph (1) (C) or (1) (E) thereof of the Immigration and Nationality Act and inserting "section 241(a) of the Immigration and Nationality Act (other than under paragraph (1) (C) of such section) or section 212(a)(6)(A) of such Act)";

in paragraph (1) (as redesignated), by inserting "section 241(a) of the Immigration and Nationality Act (other than under paragraph (1) (C) of such section) or section 212(a)(6)(A) of such Act)"; and

(b) TECHNICAL CORRECTIONS.—

(1) TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.—Section 401 (i) (3) of the Social Security Act (42 U.S.C. 421 (i) (3)) is amended—

(1) in paragraph (3) of such section (as amended by paragraphs (1) and (2) of section 615 (i) (3) of the Social Security Act (42 U.S.C. 421 (i) (3)), by striking "Deportation" and inserting "removal";

(2) by redesignating clauses (A) through (F), respectively;

(3) in clause (A) (as redesignated), by inserting "or the Secretary of Homeland Security" after "the Attorney General";

(4) in paragraph (1) (as amended by paragraphs (3) and (4)), by striking "Deportation" and inserting "removal"; and

(5) in the heading, by striking "Deportation" and inserting "removal".

(c) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

 SEC. 413. REINSTATEMENT OF 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 subsections (a) and (b) as subsections (a) and (b), respectively;

(3) in clause (b) (as redesignated), by inserting "or the Secretary of Homeland Security" after "the Attorney General";

(4) in paragraph (1), by striking "paragraph (6) (D)" and inserting "paragraph (2) (D)";

(5) in paragraph (2), by striking "paragraph (6) (C)" and inserting "paragraph (2) (C)";

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

(c) REFERENCES TO CERTAIN CASES.—

(1) in section 202(g) (3) of the Social Security Act (42 U.S.C. 402(g) (3)), in paragraph (3), by striking "Deportation" and inserting "removal";

(2) in section 216(c) (4) (A) of the Social Security Act (42 U.S.C. 416(c) (4) (A)), by striking "Deportation" and inserting "removal"; and

(3) in section 216(c) (4) (B) of the Social Security Act (42 U.S.C. 416(c) (4) (B)), by striking "Deportation" and inserting "removal".

(d) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

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 clauses (1) through (6) as clauses (A) through (F), respectively;

(2) by redesignating subsections (a) and (b) as subsections (a) and (b), respectively;

(3) in clause (E) (as redesignated), by inserting "or the Secretary of Homeland Security" after "the Attorney General";

(4) in paragraph (1) (as amended by paragraphs (1) and (2)), by striking "paragraph (6) (D)" and inserting "paragraph (2) (D)"; and

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.
"(E) the individual married the surviving husband within 60 days after the prior husband’s death.".

(e) CONFORMING AMENDMENT. - Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "the date of 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 he was employed by such entity" and inserting "if, during any portion of such service."; and

(f) EFFECTIVE DATE. - The amendment 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 ELDERLY PERSON EARNING FROM MORE THAN ONE SOURCE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 110(2), 1010(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 "to the laws applicable to"

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYERS.

(a) IN GENERAL. - Section 218(b)(6)(C) of the Social Security Act (42 U.S.C. 418(b)(6)(C)) is amended by striking "the State of Alaska, California, Colorado, Florida, Georgia, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii" and inserting "and 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 (1) of section 703 of the Social Security Act (42 U.S.C. 703(1)) is amended to read as follows: "Compensation, Expenses, and Per Diem

(1) 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 the cost 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 PEN-SION 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 the woman (or surviving divorced wife) 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)(i)" and inserting "Clauses (i) and (ii) of subparagraph (A)"; and (B) by adding at the end the following:

(ii) 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 216(b) 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 the service of the State (or political subdivision thereof, as so defined).

(b) HUSBAND’S INSURANCE BENEFITS. - Section 202(b)(2) of such Act (42 U.S.C. 402(b)(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:

(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 216(b) 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 the service of the State (or political subdivision thereof, as so defined).

(c) WIDOW’S INSURANCE BENEFITS. - Section 202(c)(7) of such Act (42 U.S.C. 402(c)(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:

(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 216(b) 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 the service of the State (or political subdivision thereof, as so defined).

(d) MOTHER’S AND FATHER’S INSURANCE BENEFITS. - Section 202(d)(4) of such Act (42 U.S.C. 402(d)(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:

(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 216(b) 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 the service of the State (or political subdivision thereof, as so defined).

(e) CONFORMING AMENDMENT. - Section 202(g)(4) of 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:

(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 216(b) pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the individual was employed in such service.

(f) EFFECTIVE DATE. - The amendments made by sections 416, 417, and 418 shall not apply with respect to applications for benefits for periods ending after the date of the enactment of this Act.

AMENDMENT. - Section 216(k) of the such Act (42 U.S.C. 416(k)) is amended by striking "the date of 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 he was employed by such entity" and inserting "if, during any portion of such service."; and

(g) EFFECTIVE DATE. - The amendment 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. 419. POST-1950 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUND IN SATISFACTION OF OUTSTANDING OBLIGATIONS.—Section 201 of the Social Security Act (42 U.S.C. 410(a)(4)) is amended by adding at the end the following:

"(d) Not later than July 1, 2004, the Secretary of the Treasury, 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) $165,379,671 to the Federal Disability Insurance Trust Fund; and

"(3) $11,860,000 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) REPORT OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPLEMENT THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.—Section 228 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

(c) NOT TO AFFECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2000 BY SECTION 8134 OF PUBLIC LAW 107–117.—Section 225(d)(2) of the Social Security Act (42 U.S.C. 429c–1) is amended by adding at the end the following:

"(l) is amended by inserting "and before 2002" after "1971".

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 12026–13) is amended—

(a) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(b) by striking "Secretary" each subsequent place it appears and inserting "Commissioner":

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINORS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security";

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner":

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to elections beginning on, or after, December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(1)(B) of the Internal Revenue Code of 1986 is amended by striking "or annuity paid for service, or compensation from service by reason of the death of the employer" and inserting "on a farm operated for profit":

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 206(a)(10)(B) of the Social Security Act (42 U.S.C. 406(a)(10)(B)) is amended by striking "(described in section 216(f)(5))" and inserting "on a farm operated for profit":

(c) AMENDMENT.—Section 3121(g)(5) of such Code and section 215(f)(5) of such Code (42 U.S.C. 410(f)(5)) are amended by striking "or domestic service in a private household, or in the employ of the employer" and inserting "on a farm operated for profit":

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 1612" and inserting "section 1612":

(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":

(c) STATE AND LOCAL TAXES.—Section 15(b)(6) of the Railroad Retirement Act of 1974 (42 U.S.C. 231n(j)(6)) is amended to read as follows:

"(b) 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 any State, political subdivision thereof, or local taxing authority. The district courts of the United States shall have original jurisdiction over any civil action brought by the Trust to enjoin any such tax or fees. The Trust may grant equitable or declaratory relief requested by the Trust.

(d) FUNDING.—Section 15(j)(8) of the Railroad Retirement Act of 1974 (42 U.S.C. 231n(j)(8)) is repealed.

(e) TRANSFERS.—

(1) Section 15(k) of the Railroad Retirement Act of 1974 (42 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 (42 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; and

(B) by inserting "or the Railroad Retirement Board" after "National Railroad Retirement Investment Trust" the third place it appears;

(f) CLERICAL AMENDMENTS.—

(1) Section 15(j)(8) of the Railroad Retirement Act of 1974 (42 U.S.C. 231n(j)(8)) 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 (B), by striking "by" and inserting "by";

(2) in subparagraph (D), by striking "Trustee and "Trustees", respectively; and

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. 410(b)(3)) is amended to read as follows:

"(b) INFREQUENT OR IRREGULAR INCOME.—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 410(b)(3)) is amended by inserting "(1) in paragraph (21), by striking "(A) not excluded under section 1613(a), or

(2) in subparagraph (B), 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 (B), by striking "by", and inserting "by";

(2) in paragraph (21), by striking "and" at the end; and

(3) by adding at the end the following:

"(c) Interest or dividend income from sources of such individual (and such spouse, if any) which are 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. 410(b)) is amended—

(1) in paragraph (21), by striking "and" at the end; and

(b) by inserting, before paragraph (22), by striking "section 1613(a) or

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to
benefits payable for more than 90 days after the date of enactment of this Act.

SEC. 431. UNIFORM 5-MONTH RESOURCE EXCLUSION.

(a) UNDERPAYMENTS OF BENEFITS.—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended—

(i) in clause (ii)(II)–

(A) by inserting "and" at the end:

(1) by striking "or" after the first 5 months following such month with respect to any amount so received during the period beginning October 1, 1997, and ending September 30, 1998; and

(B) ADVANCENTE TAX CREDITS.—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382a(b)(11)) is amended to read as follows:

(ii) the 5-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 (a)(6) thereof; and

(B) any refund of Federal income taxes made to such individual (or such spouse) under section 39 of such Code (relating to advance payment of earned income credit).

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to gross income received after the date of enactment of this Act.

SEC. 432. MODIFICATION OF DEDICATED ACCOUNT REQUIREMENTS.

(a) IN GENERAL.—Section 1613(a)(2)(F) of the Social Security Act (42 U.S.C. 1382a(b)(2)(F)) is amended—

(i) in clause (ii)(II)–

(A) in item (II), by striking "or" at the end:

(1) by redesignating item (gg) as item (hh);

(B) by inserting after item (ff) the following:

(3) any reversion or reimbursement of expenses incurred by the representative payee that are for the good of such individual; and

(ii) in the matter following item (hh) (as redesignated by paragraph (b)(2)(ii)), by inserting "(gg), is related to the impairment (or combination of impairments)" and inserting "(hh), is expensed for the good of the individual or eligible spouse on or after such date."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, shall apply to amounts described in paragraph (2) 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. 433. MODIFICATION OF EDUCATIONAL PURPOSES OF DETERMINATION OF SUPPLEMENTAL SECURITY INCOME ELIGIBILITY AND BENEFIT AMOUNTS AND SOCIAL SECURITY DISABILITY INSURANCE ENTITLEMENT.

(a) IN GENERAL.—

(1)SSI.—

(A) SAME.—Section 1611(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by adding at the end the following:

(B) 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 INSURANCEENTITLEMENT.

(a) IN GENERAL.—

(1)SSI.—

(A) SAME.—Section 1611(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. 435. EXCLUSION FROM RESOURCES FOR MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED PURPOSES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED PURPOSES.—Section 1611(a)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended by striking "and" at the end:

(1) by striking "or" after the first 90 days after the date of enactment of this Act, but only on the basis of an application filed after such date.

(b) EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED PURPOSES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382a(b)(11)) as amended by section 101(c)(2)) is amended—

(i) in paragraph (13), by striking "and" at the end;

(ii) in paragraph (14), by striking the period after "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."

(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. 1382c(c)), as amended by section 101(c)(2) is amended by adding at the end the following:

"(10) For purposes of this subsection, remuneration for services performed as a member of a uniformed service may be considered to be earned 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. 437. UPDATE OF RESOURCES LIMITS.

(a) INCREASE.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382a(3)) is amended—

(i) in paragraph (11), by changing the end: 

(1) by striking "and" and "the last place it appears; and"

(2) by striking "and" and "the last place it appears; and"

(3) by striking "and" and "the last place it appears; and"

(c) EFFECTIVE DATES—

SEC. 438. 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. 1382a(b)(1)(B)(ii)) is amended—

(i) by inserting "and" at the end:

(ii) by inserting "and" and "the last place it appears; and"

(iii) by striking "and" and "the last place it appears; and"

(iv) by inserting "and" and "the last place it appears; and"

(v) by inserting "and" and "the last place it appears; and"

(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. 439. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED PURPOSES.—Section 1611(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking "or fellowship received for use in paying" and inserting "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. 440. TREATMENT OF SERVICES RENDERED AS A VOLUNTEER.

(a) IN GENERAL.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382a(b)(11)) is amended by striking "and" and inserting "or" after the first 90 days after the date of enactment of this Act.

(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.
CONGRESSIONAL RECORD—SAPRATE

December 9, 2003

S16180

There being no objection, the matter was ordered to be printed in the RECORD, as follows:


Section 107. Survey of use of payments by representative payees

In carrying out paragraph (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, which are made 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.

(A) In carrying out paragraph (1), the Commissioner of Social Security shall—

(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—

(1) March 31; and

(2) the date of enactment of this subsection; and

(ii) with respect to fiscal years after fiscal year 2004, at least 50 percent of all determinations referred to in paragraph (1) that are made in 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 persons 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 on these past several weeks. The result of this work is reflected in the managers’ amendment that has now been incorporated into this bill.

I stand here today to explain the amendment that has been agreed to by the chairman and the ranking member of the House Ways and Means Committee, 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.

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 de- scriptions of the audit to determine if it is being performed as economically as possible, while still meeting the objective of obtaining information that is of sufficient statistical va- lidity to assist in the creation of 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 Committee have identified cases in which benefit continuation may be inad- equate circumstances. In light of this, the provision gives the Commissioner authority to determine such cases that merit a “good cause” exception.

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.

This third, the Commissioner may apply the good cause exception if the criminal offense involved in the case of probation or parole violators, both the violation and the underlying offense were non-violent and not drug-related. How- ever, the crime of nearby such cases that only establish good cause based on mili- gating factors such as the nature and sever- ity of the crime, the length of time that has passed since the warrant was issued, whether other crimes have been committed in the in- terim, and the beneficiary’s mental capacity to resolve the issue.

This document (which is to accompany the Manager’s amendment) also seeks to clarify the provisions that are effective with respect to current law. First, the Manager’s amendment includes new section 42 USC 1382(e)(3)(A)(ii) that requires a law enforcement officer to notify the Commissi- 9

The Manager’s amendment deletes this in- formation requirement in (A)(ii) to clarify that a law enforcement officer only needs to notify the Commissioner of the recipient’s identity. That change and the manager’s duty to locate or apprehend the recipient. The change is not intended to have any effect on the existing interpreta- tion or application of section 42 USC 1382(e)(3)(A)(ii) and is consistent with current practices and proce- dures.

Second, several recent decisions by Administra- tive Law Judges have noted that neither
the current statute nor the current regula-
tion to the phrase 'fleeing to avoid prosecution.' " This report provides the fol-
lowing clarification. If it is reasonable to con-
duct that the individual knew or should have
been aware of the SSA, then the individual
should be considered "fleeing," whether or
not law enforcement seeks arrest or extra-
dition.

Section 206. Penalty for corrupt or forcible inter-
ference with administration of the Social Se-
curity Act

The Manager's amendment makes a tech-
nical correction to address a drafting error.

Section 208. Authority for judicial orders of res-
titution

The Manager's amendment makes tech-
nical corrections and amends the social
restitution account created within the Treas-
ury Department. Funds collected through restitution would instead be cred-
ited to the Social Security trust funds or the
general fund of the U.S. Treasury, as ap-
propriate.

Section 210. Information for administration of provisions related to non-covered employ-
ment

The Manager's amendment would strike
this section.

Section 212. Prohibition of payment of Title II attorney fee withholding process to
protect individuals subject to similar regulation.

The Manager's amendment would make a tech-
nical correction related to certain non-
citizens and change the effective date.

B-1 visa holders are generally aliens vis-
iting the United States temporarily for busi-
ness on behalf of a foreign employer. Accord-
ing to State Department regulations, the B-
1 visa holder conducts business as a continu-
ation of his foreign employment. D visa hold-
ers are generally alien flight attendants who enter and work 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 appli-
cation of this provision to persons with So-
cial Security numbers issued after January
1, 2004. This change would provide the Social Security Administration with 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 rep-
resentation fees at $75 (indexed for infla-
tion), 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, the amendments should be not
more than $75. At the cap applies on a per case basis. (Concur-
rent cases shall be treated as a single case for
the purpose.) In a case multiple rep-
resentatives were applied to the assess-
ment proportionately to each representa-
tive issued a check and in no case should the sum 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
from Title II or Title XVI. The amendment clarifies that the
amount of past-due benefits that remain
after attorney fees that the Social Security Administration deduct
out of past-due benefits are deducted.

Effective Date

Applies with respect to fees for representa-
tion 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 im-
plement the demonstration project under
Section 303.

Section 303. Nationwide demonstration project
for providing extension of fee withholding
procedures to non-attorney representatives

The Manager's amendments adds the fol-
lowing new section:

Present Law

An individual applying for Title II or Title
XVI benefits may seek the assistance of an
other person. The person assisting the appli-
cant may receive a fee unless the Social Security Administration (SSA) approves it. If the person assisting the
individual is an attorney and the individual is
charged a fee, the payment will be made to
the SSA. When 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 ad-
ministrative costs.

Explanation of Provision

This provision would authorize a nation-
wide demonstration project to allow non-
attorney representatives to receive fees for
providing representation services 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
1613(d)(2) of the Act.

Non-attorney representatives seeking di-
rect payment of fees under the demonstra-
tion project would need to meet at least the following prerequisites: hold a bachelor's de-
gree or higher in law or another com-
plementary education; and have an exam-
ination written and administered by the
Commissioner, secure professional liability
insurance or the equivalent; undergo a crimi-
nal background check; complete con-
taining education courses. The provision
would require the Commissioner to imple-
ment 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 im-
plemented.

The Commissioner may charge a reason-
able fee to individuals seeking approval for
direct payments. Such fees should be com-
parable to the fees charged to other profes-
sionals subject to similar regulation.

The Commissioner should consult with rel-
levant experts in the area of disability policy
and professional ethics. The term "related
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 pre-
requisites should be added.

The Commissioner would be required to sub-
mit 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
beneficiaries. The provision would extend
the Title II attorney fee withholding process (in
conjunction with the GAO study required under
Section 304) to assess whether such an exten-
sion of fee withholding would increase access to
certified professional representation.

Effective Date

Applies with respect to fees for representa-
tion that are first required to be certified or
paid on or after the date the Commissioner
submits a notice that she has
completed the actions necessary to fully im-
plement this demonstration project. The in-
terim reports would be due annually; 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 ex-
tending fee withholding to Title XVI and to
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 203 and Section 303 of the
bill.

The GAO report would provide a com-
prehensive overview of the appointment and
payment of claimant attorneys and other
representatives. It would include a survey of all categories of representatives - both attorneys and non-at-
torneys, as well as those who do not elect fee withholding - as well as compare claimant outcomes by type of representa-
tives. It would also compare the costs and
efficiency of fee withholding with that of the perspec-
tive of the Social Security Administration,
claimants, and representatives.

GAO would evaluate the interactions be-
tween fee withholding and direct payment
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 recommenda-
tions for any legislative or administrative
changes deemed appropriate. The report
would be due no later than 3 years after the
implementation date of Section 304.

Section 401. Application of demonstration au-
thority sunset date to new projects

The Manager's amendment would extend
the demonstration authority through De-
cember 31, 2005, rather than the authoriza-
tion sunset date to new projects. (Concur-
rent to Section 1619 programs, etc.) and related issues to all
disabled beneficiaries. In fulfillment of this
requirement, SSA has initiated several
comprehensive initiatives - Integrated Work
Planner, Planning, Assistance, and Outreach
IIPA) program. The Act also authorizes
SSA to award grants to State protection
and rehabilitation (PRA) systems so that they
can provide protection and advocacy services to
disabled beneficiaries. Services include infor-
manal, educational, and vocational rehabilitation and employment services and
advocacy or other services that a
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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 provision. 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 dependency on cash benefit programs.

Upon enactment:

Section 415. Coverage under divided retirement system for public employees in Kentucky and Louisiana

The Manager's amendment would incorporate this 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 toward 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 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 and the majority of these workers are State and local government employees. Many of these government workers may eventually become entitled to 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 their potential maximum benefits and reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Medicare 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 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.

**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.

**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 their own work record is less-often significant than the benefits they received as a CDB. This provision was developed in cooperation with 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, is a key partner in this initiative. The legislation will provide for the development of private sector programs to act as "representative payees" for such beneficiaries. Most of these representative payees perform their roles conscientiously. However, some do not—indeed there have 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 and, with these 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 choose to bypass SSA and 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 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, SSA can no longer make 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 made by 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 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. 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. However, 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 Sub-committee as well as by the chairman and ranking member of the Senate Finance Committee which will be included in the CONG. REC. 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 chairman 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 recommit with instructions to 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. 

(a) 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 payees of persons convicted of offenses resulting in imprisonment for more than one 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 misused benefits to provide required accounting. Sec. 107. Survey of use of payments by representative payees. Subtitle B- ATTORNEY REPRESENTATIVE PAYMENT SYSTEM IMPROVEMENTS 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 offering to provide for a fee, a product or service available without charge from the Social Security Administration. Sec. 205. Refusal to recognize 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 withholding procedures to non-attorney representatives. Sec. 304. Assessment of attorney 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 demonstrative authority sunset date to new projects.
Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.

Sec. 403. Funding for 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 United States.

Sec. 413. Reinstatement of certain reporting requirements.

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

Sec. 415. Clarification respecting the FICA and contributions therefor, and resources.

Sec. 416. Coverage under divided retirement system for employees stationed overseas.

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 representation of beneficiaries 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.


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.
shall be prescribed by the Commissioner, for an annual certification to the Commissioner that it is bonded in accordance with the requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee. Any such annual certification shall include a copy of any independent audit on that agency which may have been performed since the previous certification.

(2) TITLE XVI AMENDMENTS. - Section 1681(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended to read as follows:

(iii) a community-based nonprofit social service agency licensed or bonded by the State in subclause (I) and licensed or bonded by the Commissioner in subsection (3) (other than an agency described in subparagraph (II));

(iv) a community-based nonprofit social service agency licensed or bonded by the State in subclause (I) and licensed or bonded by the Commissioner in subsection (3).

(3) EFFECTIVE DATE. - The amendments made by this subsection shall take effect on the first day of the next fiscal year in connection with benefits payable 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 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 (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 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 XVI) to another individual pursuant to paragraph (1) of section 205(j), or section 1631(a)(2) in any case in which such representative payee was changed.

(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 30 or more such individuals.

(II) EFFECTIVE DATE. - The amendments made by this subsection shall take effect on the first day of the next fiscal year in connection with benefits payable 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 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) 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, PROSECUTION, CUSTODY, OR COMMITMENT.

(a) TITLE II AMENDMENTS. - Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) is amended-

(I) in subparagraph (B)(i)(A) by striking "and at the end of subsection (III);

(II) by redesignating subparagraph (I) as subparagraph (II) and inserting after such paragraph 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:

"(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 605(b) of the Privacy Act of 1974; section 552 of the Privacy Act of 1980; section 1902 of title 31, United States Code; section 1010(a) of the Ethics in Government Act of 1978; section 704(b) of the Civil Rights Act of 1968; section 250 of title 5, United States Code; section 1104 of title 11, United States Code; title I of the Omnibus Crime Control and Safe Streets Act of 1968; section 5324 of title 5, United States Code; or 10 U.S.C. 1110; or 31 U.S.C. 6002; or 32 U.S.C. 5101; or any other Federal or State law), the Commissioner shall have the authority to require a person to disclose any personal information which the Commissioner deems necessary to determine the person's disqualification as a representative payee 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 any action to disqualify a representative payee was taken and the reason for such action;

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

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

(vi) such other information as the Commissioner deems appropriate."
this paragraph, if the officer furnishes the Commissioner with the name of such person and such identifying information as may reason-
ably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that-

(II) such person has information that is nec-

esity for the officer to conduct the officer’s of-

ficial duties, and

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

(a) by striking "paragraph (B)(i)(IV)," and

(b) by designating paragraph (B)(i)(V) as sub-

paragraph (B)(i)(IV), and

and inserting "section 1613(a)(2)(B)(i)(V)": and

(c) by inserting after subparagraph (III) the fol-

lowing:

"(IV) obtain information concerning whether

such person has been convicted of an of-

fense under Federal or State law which resulted

in imprisonment for more than 1 year;"

(2) in clause (ii)(IV) of subparagraph (B), by

inserting after "section (C)" the following:

"(C) by inserting after subparagraph (C) the

following:

"(1) in clause (ii) of subparagraph (B), by

inserting "paragraph (10)" and inserting "past

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.

(5) in clause (ii)(IV) of subparagraph (B), by

inserting after "section 1613(a)(2)(B)(i)(V): and

and inserting "paragraph (10)" and inserting "past-

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.

(5) in clause (ii)(IV) of subparagraph (B), by

inserting after "section 1613(a)(2)(B)(i)(V): and

and inserting "paragraph (10)" and inserting "past-

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.

(5) in clause (ii)(IV) of subparagraph (B), by

inserting after "section 1613(a)(2)(B)(i)(V): and

and inserting "paragraph (10)" and inserting "past-

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.

(5) in clause (ii)(IV) of subparagraph (B), by

inserting after "section 1613(a)(2)(B)(i)(V): and

and inserting "paragraph (10)" and inserting "past-

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.

(5) in clause (ii)(IV) of subparagraph (B), by

inserting after "section 1613(a)(2)(B)(i)(V): and

and inserting "paragraph (10)" and inserting "past-

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.

(5) in clause (ii)(IV) of subparagraph (B), by

inserting after "section 1613(a)(2)(B)(i)(V): and

and inserting "paragraph (10)" and inserting "past-

payee under this section, the representative

payee shall be sufficient to enable the Commissioner to es-

tablish the unique identity of such person, and

notifies the Commissioner that-

"(A) such person described in section

804(a)(2)."

(ii) such person has information that is nec-

essary for the officer to conduct the officer’s of-

ficial duties, and

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

(3) in subsection (a)(1)(I):

(a) by striking "or" at the end of subpara-

graph (B),

(b) by striking the period at the end of sub-

paragraph (C) and inserting a comma; and

(c) by adding at the end the following:

"(IV) such person described in section

1613(a)(2)(B)(i)(V): and

(4) by striking subparagraph (C) and inserting a semicolon.
payments 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 of Social Security shall submit a report to the United States Government facility designated by the Social Security Administration serving the area in which the individual resides in order to receive such benefit payments.

(2) by inserting 'who-' in the first sentence and inserting "who—"

(b) by striking "makes" in the first sentence and inserting "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 such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

SEC. 105. AUTHORITY TO REDIRECT DELIVERY OF PAYOUTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS—Section 201(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 101(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesigning paragraphs (E) and (F) as paragraphs (C) and (D), respectively; and

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

"(E) Effective date—The amendments made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

(b) TITLE VIII AMENDMENTS—Section 807(b) of such Act (42 U.S.C. 1397b(h)) is amended—

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

(2) by inserting after paragraph (4) the following:

"(5) 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. 101. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAl FACTS—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a-8(a)(1)) is amended—

(1) by deleting subparagraphs (A) and (B) and redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively; and

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

"(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 III—Enforcement

Subtitle B—Employment

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) in general—Section 1110 of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following:

"(3) In any case in which a person descends, or causes to descend, in a representation of a material fact, that a person knows, or should know, that the statement or representation is false or misleading, 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 that the person knows or should know is false or misleading, shall be subject to—"

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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 that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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 that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.

shall be subject to—"

"(A) making, or causing to be made, a statement or representation of a material fact, for use in such statement or representation or otherwise withholds disclosure of, a fact which 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, that the person knows or should know is false or misleading.
(c) CONFORMING AMENDMENTS.—

(1) Section 1128(b)(3)(A) of such Act (42 U.S.C. 1320a-8(b)(3)(A)) is amended by striking “charging false 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(c)(1)(A) of such Act (42 U.S.C. 1320a-8(c)(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 occurring on or 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 enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file that does not define crimes as felonies, 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 (l) (A); and

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

(b) PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE.—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 (l) (A); and

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

(c) CONFORMING AMENDMENT.—Section 804(a)(1) of the Social Security Act (42 U.S.C. 1320a-10(a)(1)) is amended by striking “or, in jurisdictions having no capital punishment or parole as felonies, punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed” and inserting “or (v) of paragraph (l) (A) if the Commissioner determines that—

’(v) the person is erroneously implicated in connection with the criminal offense by reason of identity fraud.’.

(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 A FEE, A PRODUCT, OR A SERVICE FOR A CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

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

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

‘(i) 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 from 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—

(A) the service is available free of charge from the Social Security Administration; and

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

(ii) Paragraph (A) shall not apply to any offer—

‘(I) to serve as a claimant representative in connection with a claim arising under title II, title XVI, or title XVIII; and

‘(II) to prepare, or assist in the preparation of, an individual’s plan for achieving self-support under title XVI; and

‘(III) to serve as a claimant representative in connection with a claim arising under title II, title XVI, or title XVIII; and

‘(IV) to prepare, or assist in the preparation of, an individual’s plan for achieving self-support under title XVI; and

‘(v) of paragraph (l) (A) if the Commissioner determines that—

’(v) the person is erroneously implicated in connection with the criminal offense by reason of identity fraud.’.

(b) CONFORMING AMENDMENT.—Section 1100(c) of this Act, the Commissioner shall promulgate such final regulations within 1 year after the date of enactment of this Act.

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

Section 406(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 notice and opportunity for hearing, (A) may refuse to recognize 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 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 person and thereafter.”
may be considered for reinstatement only under such conditions and limitations as the
Commissioner of Social Security may prescribe. -
SEC. 202. CRIMINAL PUNISHMENT FOR CORRUPT OR
FORCEFUL INTERFERENCE WITH ADMIN-
ISTRATION 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 1141A the following:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 112B. Whoever corruptly or by force or threats of force (including any threatening let-
ters or other threats of violence) 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 threat-
ning 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 Admin-
istration or to 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 So-
cial Security Act (42 U.S.C. 1320b-10(a)(1)) is amended -
(1) in subparagraph (A) by inserting "Centers for Medicare and Medicaid Services" after "Health Care Financing Administration";
(2) in subparagraph (B) by inserting "Med-
icaid", "Death Benefits Update. Federal Benefit In-
formation: Funeral Expenses", or "Final Sup-
plemental Plan," and by inserting "CMS" after "HCFA";

(b) EFFECTIVE DATE.- The amendments made by this section apply to any act committed after [December 9, 2003].

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CON-
CEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.- Section 222(c) of the So-
cial 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 individ-
ual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by-

(A) providing false information to the Com-
missioner 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 title, including under another title to which such individual was entitled, or to which such individual was not entitled, or to which such individual was entitled on the basis of an error of fact on the part of the administering title; or

(C) taking other actions to conceal work activity with the intent fraudulently to secure pay-
ment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title for any period of dis-

ability for any month before such conviction during which the individual rendered services during the period of trial work with respect to such 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 addi-
tion to any amounts for which such individual is liable as overpayments by reason of such conceal-
ment."

(b) EFFECTIVE DATE.- The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the en-
actment 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 amend-
ed by redesigning subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;
(b) by inserting after subsection (a) the fol-
lowing:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under sub-
section (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant 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 re-
duced by any overpayment of benefits owed under this title."

SEC. 210. RESTITUTION.

(a) AMENDMENTS TO TITLE XVI.- Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended-

(1) by redesignating subsection (b) as sub-
section (c); and

(2) by inserting after subsection (a) the fol-
lowing:

"(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 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 re-
duced by any overpayment of benefits owed under this title."

(c) AMENDMENTS TO TITLE XV.- Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended-

(1) by redesignating subsection (b) as sub-
section (c); and

(2) by inserting after subsection (a) the fol-
lowing:

"(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 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 re-
duced by any overpayment of benefits owed under this title."
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 overpayments occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(1) 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.”

(a) in GENERAL.—Subject to subsection (b), wherever 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 mistakenly paid by reducing 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) which 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 181(b)).

(2) EXCEPTION.—Paragraph (1) shall not apply if—

(A) the person or the spouse of the person was involved in financial 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 (a)(3)) any individual whose eligibility for benefits under such program is based on such amount of such benefits, is determined by considering any part of that person’s income, shall, as a result of such action—

(I) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (a); or

(II) if such amount or individual is otherwise otherwise so affected, 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 supplemental payments paid by the Commissioner pursuant to an agreement under section 1618(a) of this Act or section 211(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—

(A) in paragraph (1) (B), by striking “any payment” and all that follows through “this period” and inserting “any payment” and all that follows through “this month”;

(B) in striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by striking 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."

(2) Section 808 of the Social Security Act (42 U.S.C. 108) is amended—

(A) in subsection (a)(1)—

(B) by striking paragraph (B);

(c) in the matter preceding subparagraph (A), by striking “any payment” and all that follows through “this period” and inserting “any payment” and all that follows through “this month”;

(3) by striking “; or” and inserting a period:

(4) by redesignating subsection (c) as (b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments occurring 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—

(I) by inserting “, except that the maximum amount of the assessment may not exceed the greater of $15 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”;

(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 210(c)(2)(B)(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 shall be multiplied by $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 billed or paid under section 1026 of the Social Security Act or on or after the first day of the 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. 1381(d)(2)) is amended—

(I) 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)(l) and (d) thereof)"; and
(C) by striking "paragraph (2) thereof" and inserting "such section";

(II) in subparagraph (A) (i)—

(A) by striking "in subparagraphs (A)(ii) and (C)(ii)" and inserting "in subparagraph (A)(ii) and (D) of subsection (a)(2);";
(B) by striking "and" at the end.

(ii) by striking subparagraph (A)(ii) and inserting the following:

"(i) by substituting, in subsections (a)(2)(B) and (B)(i)(B)(i), the phrase "paragraph (7)(A) or (B)(A) of section 1631(a) or the requirements of due process law for the phrase "subsection (g) or (b) of section 221;"

(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)(l)(A), the phrase "or reduced 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

(iv) 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 such past-due benefits available after any applicable reductions under sections 1631(g) and 1631(h).

"(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 (i).

(ii) 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 subsection by the percentage specified in clause (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 percentage 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)(i). The amount 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 subparagraph 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 deemed as miscellaneous receipts in the general fund of the Treasury.

"(vi) The assessments authorized under this subparagraph shall be 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. 1381(a)) is amended—

(I) in paragraph (2)(F)(l)(II), by inserting "and payment of attorney fees under subsection (d)(2)(B)" after "(g)"; and

(II) 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 (i), by inserting "and payment of attorney fees under subsection (d)(2)(B) for "State."

(c) EFFECTIVE DATE.—

(I) 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 this Act with respect to the fee assessed under subsection 303(d) of 42 U.S.C. 13319 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 (I).

303. NATIONWIDE DEMONSTRATION PROJECT—FEES FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) IN GENERAL.—The Commissioner of Social Security (hereinafter 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 who act in the capacity of representatives claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine whether fee withholding procedures for non-attorney 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 pre requisites:

(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 courses or other instruction shall meet such standards as the Commissioner may prescribe.

(c) ASSESSMENT OF FEES.—

(I) IN GENERAL.—The Commissioner may assess representatives for fees in the course of administering the prerequisites described in subsection (b).

(2) DISPOSITION OF FEES.—Fees collected under paragraph (l) 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 Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—The fees authorized under this subparagraph shall be used 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 purposes described in subsection (b).

(e) 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 conditions. The applicability of 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 claims for benefits in the case of claims for benefits with respect to which the agreement for representation was not made by the Commissioner of Social Security to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply to any claimant representatives who are not eligible for such fee withholding.

(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 notice shall be effective with respect to claims for benefits with respect to which the agreement for representation is entered into after the termination date.

(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).

(4) REPORT.-

Not later than 3 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d), 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 with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) STUDY.-

(I) IN GENERAL.-

The Comptroller General of the United States shall study and evaluate the fee payment and assessment procedures under sections 206 and 1631(d)(2) of the Social Security 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.

(ii) matters to be studied.

(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 this Act amended 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 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.

(2) 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 of the notice by the Commissioner to each House of Congress pursuant to subsection (d) of this Act, the windfall offset under section 1127 of such Act and interim assistance reimbursements under section 1631(g) of such Act.

(i) matters to be studied.

(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 this Act amended 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 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.

(2) 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 of the notice by the Commissioner to each House of Congress pursuant to subsection (d) of this Act, the windfall offset under section 1127 of such Act and interim assistance reimbursements under section 1631(g) of such Act.

(i) matters to be studied.

(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 this Act amended 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 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.

(2) 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 of the notice by the Commissioner to each House of Congress pursuant to subsection (d) of this Act, the windfall offset under section 1127 of such Act and interim assistance reimbursements under section 1631(g) of such Act.

(i) matters to be studied.

(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 this Act amended 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 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.

(2) 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 of the notice by the Commissioner to each House of Congress pursuant to subsection (d) of this Act, the windfall offset under section 1127 of such Act and interim assistance reimbursements under section 1631(g) of such Act.

(i) matters to be studied.

(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 this Act amended 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 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.

(2) 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 of the notice by the Commissioner to each House of Congress pursuant to subsection (d) of this Act, the windfall offset under section 1127 of such Act and interim assistance reimbursements under section 1631(g) of such Act.
section 1618(a) of this Act or under section 212(b) of Public Law 93-603.

"(D) who is entitled to benefits under part A of title XVIII of the Social Security Act by reason of the decedent's passage, in full or in part, of a sentence of section 223(b) of this Act."

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT. - Section 1150(b) (4)(B) of the Social Security Act (42 U.S.C. 1320b-21(b)(2)) is amended by inserting "secure and regain".

(3) EFFECTIVE DATE. - The amendments made by this subsection shall apply with respect to payments made on or after the date the enactment of this Act.

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) In General. - Section 218(g)(1) of the Social Security Act (42 U.S.C. 1320b-19(g)(1)) is amended by adding the end, after and below subparagraph (E), the following:

"(f) GAO REPORT. - Not later than 12 months after the date of enactment of this Act, the Commissioner of Social Security 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. 1320c-58), which report shall:

(1) examine the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 218(g) of the Social Security Act (42 U.S.C. 1320b-19 note), and the Commissioner of Social Security regarding such program;

(2) assess 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 "2008".

(b) ADVOCACY. - Section 1150(h) of the Social Security Act (42 U.S.C. 1320b-21(h)) is amended by striking "2004" and inserting "2008".

Subtitle E—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) In General. - Section 205(q) of the Social Security Act (42 U.S.C. 405(q)) 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 subsection shall apply with respect to final determination made 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 201(b) of the Social Security Act (42 U.S.C. 402(b)) is amended -

(1) in paragraph (1), by striking "section 241(a) (other than under paragraph (1)(C) or (1)(G) 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 221(g)(1)(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 inserted "section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 221(g)(1)(A) of such Act"

SEC. 413. RESTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3613(b) 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:

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

(b) Section 1011(b)(2) of the Social Security Act (42 U.S.C. 1395f(b)(2)).

(b) Section 1011(b)(2) of the Social Security Act (42 U.S.C. 1395f(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(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

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 "(i)" after "(c)";

(b) EFFECTIVE DATE. - The requirements of paragraph (1)(E) in connection with the remarriage of an individual shall be treated as satisfied if:

(1) the individual had been married prior to the individual's marriage to the surviving spouse;

(2) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity;

(3) "during the period of the prior wife's institutionalization," the individual would have divorced the prior wife and married the surviving spouse, but the individual did not so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, were 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);

(4) the prior wife continued to remain institutionalized up to the time of her death;

(5) the individual married the surviving wife within 90 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 (F) as clauses (I) through (vi), respectively;

(2) by redesignating clauses (1) through (8) 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 "(i)" 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:

(1) the individual had been married prior to the individual's marriage to the surviving husband;

(2) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity;

(3) 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 so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, were 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.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT.—Title II of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (g)(1) or clause (E) of subsection (q)(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 enactment of this Act.

SEC. 419. CLARIFICATION RESPECTING THE EXEMPTION FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE TAXES OR CONTRIBUTIONS FOR SIMILAR PURPOSES.—Title II of the Social Security Act (42 U.S.C. 418(d)(6)(D)) is amended by inserting "or clause (E) of subsection (g)(1) or clause (E) of subsection (q)(1)".

SEC. 415. CLARIFICATION.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.—(a) IN GENERAL.—Section 202(b)(6) of the Social Security Act (42 U.S.C. 903(1)) 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:

"(i) a monthly amount of insurance benefit of any individual for each month under subsection (b), (c), (d), (f), or (g) (as determined after application of the provisions of subsection (g)) and paragraphs (5) and (9) as paragraphs (7) and (11) as paragraphs (11) and (13); and

(b) CONFORMING AMENDMENTS.—(i) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended by adding a new subsection (i) to read as follows:

(ii) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended by adding a new subsection (i) to read as follows:

(iii) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended by adding a new subsection (i) to read as follows:

(iv) WIDOWER'S INSURANCE BENEFITS.—Section 202(e)(1) of the Social Security Act (42 U.S.C. 402(e)(1)) is amended by adding a new subsection (i) to read as follows:

SEC. 419. DISABILITY TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET.- (A) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS.—Title II of the Social Security Act (42 U.S.C. 418(d)(6)(D)) is amended by inserting "or clause (E) of subsection (g)(1) or clause (E) of subsection (q)(1)".

(B) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2003.
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wages or self-employment income indicate a likelihood of noncovered employment—
(a) QUORUM RULES.—Section 1402(a)(5)(A) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended by striking “entitled to child’s insurance benefits termi-
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning before the semicolon.
SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.
(a) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning before the semicolon.
(a) STATE AND LOCAL TAXES.—Section 15(i)(6) of the Railroad Retirement Act of 1974 (42 U.S.C. 231n(d)(2)) is amended to read as follows: "(i) STATE AND LOCAL TAXES.—The Trust shall be exempt from any income, sales, use, property, or excise tax or fee imposed 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.

(b) ADVANCEABLE TAX CREDITS.—Section 1611(a)(1)(B) of the Social Security Act (42 U.S.C. 1382b(a)(1)) is amended to read as follows: "(1) for the 9-month period beginning after the month in which received:"

(c) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382c(a)) is amended by striking "and" after "citizen of the United States", and by inserting "and who", and all that follows and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply 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 EXPENSES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended by striking "or fellowship received for use in paying" and inserting "fellowship, or gift (for 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 at the end and adding at the end the following:

"for the 9-month period beginning after the month in which received or to pay tuition and fees at any educational (including technical or vocational educational) 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. 1382c(c)), as amended by section 433(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 in the same manner in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economic security 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 "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.

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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.
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.

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 rep-
resentative 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 RE-
QUIREMENTS 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 non-
profit social service agency (as defined in para-
graph (9))”;

(B) in paragraph (3)(F), by striking “com-
community-based nonprofit social service agencies”
and inserting “certified community-based non-

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profit social service agencies (as defined in para-
graph 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 non-
profit social service agency (as defined in para-
graph 9)); and

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

“(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 certifi-
cation 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 represent-
itive payee (if licensing is available in the State) in accord-
ance with requirements specified by the Commissioner. Any
such annual certification shall include a copy of any inde-
dependent audit on the agency which may have been per-
formed since the previous certification.”.

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(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

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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 re-
views 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 represent-
ative 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 ven-
dor, 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 mis-
use of funds, including any criminal penalties im-
posed; and

"(viii) such other information as the Commis-
sioner 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 fol-
lowing:

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“(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 representa-
tive 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."

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(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”;

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(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)”;

(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)”;

(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 or- ganization may not collect a fee from an individual for any month with respect to which the Commiss- sioner of Social Security or a court of competent ju- risdiction has determined that the organization mis- used 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 cer-
tified 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:

“(l) LIABILITY FOR MISUSED AMOUNTS.—

“(1) IN GENERAL.—If the Commissioner of So-
cial Security or a court of competent jurisdiction de-
termines that a representative payee that is not a
Federal, State, or local government agency has mis-
used 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 rep-
resentative payee for all purposes of this Act and re-
lated laws pertaining to the recovery of such overpay-
ments. 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),

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upon recovering all or any part of the amount, the Commiss-
ioner shall make payment of an amount equal to the recov-
ered amount to such individual or such individual’s alter-
native 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 rep-
resentative 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 fol-
lowing:
“(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,
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 per-
son 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 state-
ment 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 im-
posed, or
“(v) is violating a condition of probation or pa-
role imposed under Federal or State law.”;
(5) by adding at the end of paragraph (1)(B) the
following:
“(iii) Notwithstanding subparagraph (A), the Com-
missioner shall, for good cause shown, pay the individual
benefits that have been withheld or would otherwise be with-
held 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, dis-
missed the charges relating to the criminal offense,
vacated the warrant for arrest of the individual for
the criminal offense, or issued any similar exon-
erating 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

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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 dis-
barred 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 sec-
tion from appearing before the Social Security Administra-
tion 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 representa-
tive 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 communica-
tion) attempts to intimidate or impede any officer, em-
ployee, or contractor of the Social Security Administration

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(including any State employee of a disability determina-
tion service or any other individual designated by the Com-
mmissioner 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 Ad-
ministration, or to a member of the family of such an officer
or employee or contractor.”.

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

(a) IN GENERAL.—Section 1140(a)(1) of the Social Se-
curity 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 Bene-
fits Update’, ‘Federal Benefit Information’, ‘Funeral

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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.”; 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 pro-
gram 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 AS-
SESSMENT 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 insur-
ance 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 re-
cover 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 subpara-
graph (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 redesig-
nating 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—

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(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)”;

(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)”;

(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 im-

pose 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 begin-

ning after the amendments made by section 302 of the So-

cial 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 author-
ized 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 pre-requisites:

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 PROC.
ESS 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 Gen-
eral 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(y) 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 insert-
ing "(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 PRO-
VIDING FOR REDUCTIONS IN DISABILITY IN-
SURANCE 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 appro-
priate by the Commissioner of Social Security, and from
the Federal Hospital Insurance Trust Fund and the Federal
Supplementary Medical Insurance Trust Fund, as deter-
mined 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, co-operative 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 pe-
nnultimate 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 pay-
ments provided after the date of the enactment of this
Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-
MENT FOR CERTAIN PURPOSES OF INDI-
VIDUAL WORK PLANS UNDER THE TICKET TO
WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Se-
curity Act (42 U.S.C. 1320b–19(g)(1)) is amended by add-
ing at the end, after and below subparagraph (E), the fol-
lowing:

“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 OUT-REACH.—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.

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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 (re-
lating to participating in Nazi persecutions or geno-
cide) 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 in-
serting “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 sub-
section (a)) is amended further—

(A) by striking “deportation” each place it
appears and inserting “removal”;  
(B) by striking “deported” each place it ap-
ppears and inserting “removed”; and
(C) in the heading, by striking “Deporta-
tion” and inserting “Removal”.

(2) REFERENCES TO THE SECRETARY OF HOME-
LAND SECURITY.—Section 202(n) of the Social Secu-
ritv Act (42 U.S.C. 402(n)) (as amended by sub-
section (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)”;

(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 in-
stitutionalized up to the time of his death, and

"(E) the individual married the surviving hus-
band 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 ben-
efits 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 PART-
NER.

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 in-
serting “exclusively to the laws applicable to”.

† HR 743 EAS
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 in-
serting “Kentucky, Louisiana,” after “Illinois,”.

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

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVI-
SORY 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 (includ-
ing traveltime) during which the member is attending meet-
ings 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 trav-
el 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 (g) 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 pay-
ment described in such clause (ii) or the ces-
sation of coverage described in such clause (iii)
(whichever is applicable) was received or oc-
curred 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 For-
egn 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 sub-
paragraph, 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 re-
spect 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 re-
spect to monthly periodic benefits based in whole or in part
on service which constituted 'employment' as defined in sec-
tion 210 if such service was performed for at least 60
months in the aggregate during the period beginning Janu-
ary 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)”.


(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 WIND-
FALL ELIMINATION PROVISION AND GOVERN-
MENT PENSION OFFSET PROVISION.

(a) INCLUSION OF NONCOVERED EMPLOYEES AS ELI-
GIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY AC-
COUNT STATEMENTS.—Section 1143(a)(3) of the Social Se-
curity 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 subpara-
graphs (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-employ-
ment income indicate a likelihood of noncovered em-
ployment”.

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT
STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BEN-
EFITS 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 there-
of, as defined in section 218(b)(2)) in a position in which
service performed by the individual does not constitute 'em-
ployment' 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 under-
stood 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 pay-
able based on earnings derived in such service. Such notice
shall be in a form which shall be prescribed by the Commis-
sioner of Social Security.

“(2) The written notice provided to an individual pur-
suant to paragraph (1) shall include a form which, upon
completion and signature by the individual, would con-
stitute certification by the individual of receipt of the no-
tice. 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 en-
tity 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 re-
pect to social security account statements issued on or after

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST
FUNDS IN SATISFACTION OF OUTSTANDING OBLIGA-
TIONS.—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 In-
surance Trust Fund; and

‘‘(3) $173,306,134 to the Federal Hospital Insur-
ance 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 sub-
section (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 ap-
ppears and inserting "Commissioner of Social Secu-

(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 Se-
curity 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 par-
sonage 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 re-
ceived 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.

6 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”.

6 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 in-
come” 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”.


(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
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 PERI-
ODS.

(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 fol-
lowing such month with respect to any amount so re-
ceived 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 sub-
section (d) thereof; and

“(B) any refund of Federal income taxes
made to such individual (or such spouse) by rea-
son 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 eligi-
ble spouse on or after such date.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE
APPLICATION OF THE STUDENT EARNED IN-
COME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(1) of the Social Se-
curity Act (42 U.S.C. 1382a(b)(1)) is amended by striking
“a child who” and inserting “under the age of 22 and”.

† HR 743 EAS
(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 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 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 nonrecurring 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 PRO-
VIDED 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 fol-
lowing:

“(15) for the 9-month period beginning after the
month in which received, any grant, scholarship, fel-
lowship, 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.

Attest:

Secretary.
CONGRESSIONAL RECORD—HOUSE

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Mr. FILNER. Mr. Speaker, I was unavoidably detained for a roll call vote 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. 3752, 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:

Section 1. Title I—Protection of Beneficiaries

(a) Administration—The Senate amendment may be cited as the "Social Security Protection Act of 2003."

(b) Table of Contents—The table of contents is as follows:

1. Short title and table of contents

2. Authority to reissue benefits misused by representative payees

3. Oversight of representative payees

4. 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

5. Fee forfeiture in case of benefit misuse by representative payees

6. Liability of representative payees for misused benefits

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

8. Survey of use of payments by representative payees

Section II—Program Provisions

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

10. Civil monetary penalty authority with respect to withholding of material facts

11. Civil monetary penalty authority with respect to withholding of material facts

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

13. Denial of title II benefits to persons fleeing prosecution, custody, or confinement

14. Prohibitions requiring to offer to provide for a fee, a product or service available from the Social Security Administration

15. Refusal to recognize certain individuals as claimant representatives

16. Criminal penalties for corrupt or forcible interference with administration of Social Security Act

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

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

19. Authority for judicial orders of restitution

20. Authority for cross-program recovery of benefit overpayments

21. Prohibition on payment of title II benefits to persons not authorized to work in the United States

Section III—Attorney Representations

22. Authority to represent beneficiaries in claims for Social Security and medicare

23. Capitation payments to representatives

24. Claims for Social Security and medicare

25. Exclusion from receipt of capitation payments

26. Relocation of beneficiaries

27. Reimbursement of beneficiaries

Section IV—Miscellaneous and Technical Amendments

28. Amendments relating to the Ticket to Work and Work Incentives Improvement Act of 1999

29. Application of demonstration authority sunset date to new projects

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

31. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings

32. Availability of Federal and State work incentives services to additional individuals

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

(2) misuse of benefits provided 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 XI AMENDMENTS.

(1) REISSUANCE OF BENEFITS. — Section 807(i) of the Social Security Act (42 U.S.C. 1020(i)) is amended by adding at the end the following:

"(8) For purposes of this subsection, misuse of benefits is defined as 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 subsection."

(2) MISUSE OF BENEFITS DEFINED. — Section 807(i) of such Act (42 U.S.C. 1020(i)) is amended by adding at the end the following:

"(9) For purposes of this subsection, the term "use and benefit" means —

(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;

(c) 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 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.

(d) TECHNICAL AMENDMENT. — Section 807(a) of such Act (42 U.S.C. 1020(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit."

(e) TITLES XVI AMENDMENTS.

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

(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 VIII, or any combination of such titles;

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

"(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;

(2) misuse of benefits provided 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."

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

"(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;

(2) 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."

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

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(i) and inserting "a certified community-based nonprofit social service agency as specified in subparagraph (C)"; and
(ii) in subparagraph (D) (i)—

(i) by striking "or any community-based" and adding "and any certified community-based nonprofit social service agency as specified in subparagraph (C)"; and

(ii) by inserting "or and a similar investigation conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;"

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

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

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

(vii) other information as the Commissioner determines to be necessary for the officer to conduct the officer's official duties, and

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

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

(B) 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.

(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 conducted by the Commissioner, including 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 discovered in which there was a misuse of funds;

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

(VI) such other information as the Commissioner deems appropriate.

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

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

(1) in subparagraph (B), by inserting "or and a similar investigation conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(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 investigations 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) other information as the Commissioner deems appropriate.

(b) TITLE XV AMENDMENT—Section 1313(a)(2)(C) of such Act (42 U.S.C. 1331(a)(2)(C)) is amended to read as follows:

(1) in subparagraph (B), by striking "or and a similar investigation conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(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.

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

(i) by striking "or and a similar investigation conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

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

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

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

(v) such other information as the Commissioner deems appropriate.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009.
(A) by striking "or" at the end of subsection (I),
(B) by striking the period at the end of subsection (III), and inserting a comma; and
(C) by adding at the end the following:

"(IV) such person has previously been convicted for in excess of 1 year of an offense under Federal or State law which resulted in the conviction of such person, and the appropriate Federal, State, or local government agency has misused such overpayment. Subject to subparagraph (A), upon recovering any or all of such amount, the Commissioner shall make payment of an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) the total amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment to such individual or such individual's alternative representative payee under paragraph (A) and the amount paid under subsection (i) of section 205(j) of such Act."

Sec. 105. LIABILITY FOR MISUSED BENEFITS.

"(A) 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 an individual's benefit for purposes of paragraphs (3) and (6), the Commissioner shall make payment of an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment to such individual or such individual's alternative representative payee under paragraph (A) and the amount paid under subsection (i) of section 205(j) of such Act."

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(2) TITLE XVI AMENDMENTS — Section 1631(a)(2) of such Act (42 U.S.C. 1385(a)(2)) as amended by section 102(b)(3) is amended further—

(1) in subparagraph (B)(ii), by striking "205(2)(B)(ii)" and inserting "section 205(1)(a)(ii)"; and

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

"(II) 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 such payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or title XVIII or any part of the amount, the Commissioner shall make payment of an amount equal to 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 take effect 180 days after the date of the enactment of this Act.

SEC. 161. SURVEY OF CASES OF REPRESENTATIVE PAYEES.

(a) IN GENERAL — Section 1101 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

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

(ii) by inserting after subparagraph (G) 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 payments, pay such person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such monthly insurance benefits under title II or benefits or payments under title XVIII, 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.

"(f) by inserting "or each receipt of such benefits or payments withholding disclosure of such fact" after "such statement or representation of a material fact" after "because of such statement or representation of a material fact" after "such a statement or representation" after "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 XVIII, 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,

(2) 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 XVIII, if 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) makes such 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 XVIII, 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,

(3) by striking "and each receipt of such benefits or payments withholding disclosure of such fact" after "such statement or representation of a material fact" after "because of such statement or representation of a material fact" after "such a statement or representation" after "shall be subject to," and inserting the following:

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

(3) makes such 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 XVIII, 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,

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

(5) makes such 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 XVIII, 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,

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

(7) makes such 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 XVIII, 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,

(8) makes such a statement or representation for such use with knowing disregard for the truth, or
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) by striking subsection (b) and inserting the following:

"(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the date of the enactment of this Act.

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

Section 206(a)(1)(I) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after "attorney representative" the following: "or, disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from practicing or who is otherwise not qualified or suspended pursuant to this section from appearing before the Social Security Administration as a representative until full restoration of the attorney's right or communication is restored to the attorney 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 threat of force (including, in the case of a letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including..."

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any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security to have 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 threat of physical violence, intimidation, or penal sanctions, or threats of force, 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. In any case in which the offender 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 force 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

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


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

(iii) 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," after "Health Care Financing Administration,"

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of 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 pursuant to subsection (a) of such section, 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 any overpayment of benefits owed under this title, title VIII, or title XVI by the individual.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 12164) is amended by redesignating such section as section 811(a) and inserting after such section the following:

"(b) COURT ORDER FOR RESTITUTION.— 

(1) In general.—When sentencing a defendant convicted of an offense under subsection (a), the court shall state on the record the reasons therefor.

(2) COURT ORDER FOR RESTITUTION. — 

(a) In general.—When sentencing a defendant convicted of an offense under subsection (a), the court shall order the defendant to make restitution to the Commissioner of Social Security, in any case in which such offense results in—

(A) the Commissioner of Social Security mak- 

(b) An individual suffering a financial loss 

(c) 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).

"(D) RECEIPT OF RESTITUTION PAYMENTS.— 

"(i) a person suffering a financial loss described in clause (I) or (II);

"(b) 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY

(a) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 12164) is amended by redesignating such section as section 811(a) and inserting after such section the following:

"(b) COURT ORDER FOR RESTITUTION.— 

(1) In general.—When sentencing a defendant convicted of an offense under subsection (a), the court shall order the defendant to make restitution to the Commissioner of Social Security, in any case in which such offense results in—

(A) the Commissioner of Social Security mak- 

(b) An individual suffering a financial loss 

(c) 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).

"(D) RECEIPT OF RESTITUTION PAYMENTS.— 

"(i) a person suffering a financial loss described in clause (I) or (II);

"(b) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (a), the court shall state on the record the reasons therefor.

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

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

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION

(a) AMENDMENTS TO TITLE II.—Section 209 of the Social Security Act (42 U.S.C. 408) is amend- 

(1) by redesignating paragraphs (b) and (c), and

(2) by inserting after subsection (a) the follow- 

(II) 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 (I).

(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.

"(i) a person suffering a financial loss described in clause (I) or (II);

"(b) 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY

(a) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 12164) is amended by redesignating such section as section 811(a) and inserting after such section the following:

"(b) COURT ORDER FOR RESTITUTION.— 

(1) In general.—When sentencing a defendant convicted of an offense under subsection (a), the court shall state on the record the reasons therefor.

(2) COURT ORDER FOR RESTITUTION. — 

(a) In general.—When sentencing a defendant convicted of an offense under subsection (a), the court shall order the defendant to make restitution to the Commissioner of Social Security, in any case in which such offense results in—

(A) the Commissioner of Social Security mak- 

(b) An individual suffering a financial loss 

(c) 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).

"(D) RECEIPT OF RESTITUTION PAYMENTS.— 

"(i) a person suffering a financial loss described in clause (I) or (II);

"(b) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (a), the court shall state on the record the reasons therefor.

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

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days 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 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 amounts owed by decreasing any amount which is payable to such person under any other program specified in that subsection.

(b) LIMITATION APPLICABLE TO CURRENT BENEFITS.—

(I) In GENERAL.—In carrying out subsection (a), the Commissioner of Social Security may not decrease any 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 title XVIII, by more than 10 percent of the amount of the benefit payable to the person for that month: or

(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 XVI, payments made under title II programs and excluding income excluded pursuant to section 1612(b)).

(II) EXCEPTION.—Paragraph (I) shall not apply—

(A) if 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) if the person so requests.

(c) NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNTS UNDER TITLES II, VIII, AND XVI.—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to decrease any 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—

(I) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

(II) if the person or individual is otherwise so eligible, become eligible for increased benefits under such program.

(d) NON-APPLICABILITY 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 under (D)(i) of an agreement under section 1616(a)(3) of this Act or section 212(b) of Public Law 96–60) .

(3) The food stamp program.

(4) The_cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.

(5) The section 206(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.

(7) Section 408 of the Social Security Act (42 U.S.C. 608) is amended—

(A) in subsection (a)(1)—

(I) by striking "any payment" and all that follows through "under this title" and inserting "any payment under this title"; and

(ii) 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.

(8) Section 1147A of the Social Security Act (42 U.S.C. 1320b-18) is repealed.

(9) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(D)(i), the phrase "excluding any other and inserting "excluding payments under title II when recovery is made from title II payments pursuant to section 143 and excluding": and

(B) by striking paragraph (4) and inserting the following:

(4) For purposes relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.

(f) AGAINST ASSESSMENT AND LEGAL PROCESS—Section 205(c) of the Social Security Act (42 U.S.C. 405(c)) is amended to read as follows:

(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 paragraph (4); 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(d)(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. If an adjustment pursuant to a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 1612(b)(1) and (2) that are outstanding on or after such date.

SEC. 301. CAP ON ATTORNEY FEES.

(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 "and (b)" after "as required":

(2) by striking "under the provisions of such section":

(3) by inserting the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 206(d)(2)(A) that are outstanding on or after such date.

SEC. 302. TEMPORARY Expansion 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. 1383c(d)(2)) is amended—

(1) by striking "(A)(2)(B) thereof" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 206(d)(2)(B) that are outstanding on or after such date.

SEC. 303. AUTHORIZATION TO PAY ATTORNEYS.

(a) In GENERAL.—Section 1631(d)(2)(A) of the Social Security Act (42 U.S.C. 1383c(d)(2)(A)) is amended—

(1) by striking "(A)(2)(B) thereof" and inserting "(other than subsections (a)(4) and (d)(3) thereof)"; and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 206(d)(2)(B) that are outstanding on or after such date.

SEC. 304. LIMITATION ON USE OF ATTORNEY FEES.

(a) In GENERAL.—Section 206(d)(2)(B) of the Social Security Act (42 U.S.C. 406(d)(2)(B)) is amended—

(1) by striking "under the provisions of such section":

(2) by striking "under paragraph (3)(C)(i) thereof" and inserting "under paragraph (3)(C)(i) thereof": and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 206(d)(2)(B) that are outstanding on or after such date.

SEC. 305. CAP ON ATTORNEY FEES.

(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 striking "under the provisions of such section":

(2) by striking "under paragraph (3)(C)(i) thereof" and inserting "under paragraph (3)(C)(i) thereof": and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 206(d)(2)(B) that are outstanding on or after such date.

SEC. 306. TEMPORARY Expansion 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. 1383c(d)(2)) is amended—

(1) by striking "(A)(2)(B) thereof" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken under section 206(d)(2)(B) that are outstanding on or after such date.
"(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 pursuant to section 1127(a), or (ii) the amount of past-due benefits available after deductions for applicable reductions under sections 1631(g) and 1127(a).

(C)(i) Whenever a fee for services is required to be withheld from a claimant's past-due benefits pursuant to paragraph (a), 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 the Commissioner under paragraph (a) by 1.15, but in no case less than $75.

(iii) The Commissioner may collect the assessment imposed under clause (i) by offset from 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 deductions for applicable reductions under sections 1631(g) and 1127(a).

(3) AUTHORIZATION OF APPROPRIATIONS.—The amounts appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(4) STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.—Fee-withholding procedures may be extended to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act to such representatives reasonable fees to cover the cost of the Social Security Administration in connection with 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 date of the termination of the demonstration project.

(5) 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 section 303.

(6) GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.—

(a) STUDY.—The Comptroller General of the United States shall study and evaluate the appointment and payment of non-attorney representatives appearing before the Commissioner of Social Security in connection with benefit decisions affecting 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 are eligible for, and 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 demonstration, the Comptroller General shall, for each group of claimant representatives described in paragraph (1), study the 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 for disability or retirement benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to the claimant, such as whether the claimant is a friend, family member, or client of the claimant representative, and

(vi) any 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 such claimant representatives' 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 reinsertments under section 1631(g) of such Act, and the results of making such procedures permanent under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures adopted 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 to improve the effectiveness and efficiency of the administration of programs for beneficiaries under title XVII of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation conducted pursuant to subsection (a).

TITLE I—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 note) (1) in the first sentence of subsection (c), by striking—

"(c) "conducted under subsection (a)" and inserting—

"(c) "initiated under subsection (a) on or before December 17, 2003;" 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 17, 2005."

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDISTRIBUTIONS 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. 1320b-21 note) is amended by striking "(42 U.S.C. 401 et seq.)," inserting "(42 U.S.C. 401 et seq.) and the requirements of section 141 of the Ticket to Work and Work Incentives Improvement Act of 1999 as amended from the Federal Disability Insurance and Supplementary Medical Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate to improve the effectiveness of such program; and

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDISTRIBUTIONS 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. 1320b-21 note) is amended by striking "(42 U.S.C. 401 et seq.) and the requirements of section 141 of the Ticket to Work and Work Incentives Improvement Act of 1999 as amended from the Federal Disability Insurance and Supplementary Medical Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate to improve the effectiveness of such program; and

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVES OUTREACH.

Section 402 of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-21 note) is amended by adding at the end, after and below subparagraph (f), the following:

"(g) IN GENERAL.—Section 1149(c) of the Social Security Act (42 U.S.C. 1320b-21(g)(1)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

SEC. 405. DISABLED BENEFICIARIES ELIGIBLE TO RECEIVE FEDERAL WORK INCENTIVES.

Section 1149(c) of the Social Security Act (42 U.S.C. 1320b-21(g)(1)) is amended by striking "who is entitled to benefits under part A of title XVII of this Act, is considered to be receiving benefits under title XYI of this Act; or" and inserting "who is entitled to benefits under part A of title XVII of this Act, is considered to be receiving benefits under title XYI of this Act; or"

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 to Congress a report 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).

(b) TITLE II—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 note) (1) in the first sentence of subsection (c), by striking—

"(c) "conducted under subsection (a)" and inserting—

"(c) "initiated under subsection (a) on or before December 17, 2003;" 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 17, 2005."

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDISTRIBUTIONS 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. 1320b-21 note) is amended by striking "(42 U.S.C. 401 et seq.)," inserting "(42 U.S.C. 401 et seq.) and the requirements of section 141 of the Ticket to Work and Work Incentives Improvement Act of 1999 as amended from the Federal Disability Insurance and Supplementary Medical Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate to improve the effectiveness of such program; and

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDISTRIBUTIONS 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. 1320b-21 note) is amended by striking "(42 U.S.C. 401 et seq.) and the requirements of section 141 of the Ticket to Work and Work Incentives Improvement Act of 1999 as amended from the Federal Disability Insurance and Supplementary Medical Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate to improve the effectiveness of such program; and

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVES OUTREACH.

Section 402 of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-21 note) is amended by adding at the end, after and below subparagraph (f), the following:

"(g) IN GENERAL.—Section 1149(c) of the Social Security Act (42 U.S.C. 1320b-21(g)(1)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

SEC. 405. DISABLED BENEFICIARIES ELIGIBLE TO RECEIVE FEDERAL WORK INCENTIVES.

Section 1149(c) of the Social Security Act (42 U.S.C. 1320b-21(g)(1)) is amended by striking "who is entitled to benefits under part A of title XVII of this Act, is considered to be receiving benefits under title XYI of this Act; or"

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 to Congress a report 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).
SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENTS IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) In General.—Section 201(g) of the Social Security Act (42 U.S.C. 401(g)) is amended by striking 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 subsection shall take effect 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 REMAND FROM THE UNITED STATES COURT OF APPEALS.

(a) In General.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended by striking "land Security" after "the Attorney General" and inserting "the United States".

(b) Section 212(f) of the Social Security Act (42 U.S.C. 412(f)) is amended by inserting "section 237(a) of the Immigration and Nationality Act (relating to deportation under such paragraph (1))" in connection with the determination that an individual shall be considered to have been deported under such paragraph (1). "and inserting "land Security" after "the Attorney General" and inserting "the United States".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to any request for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 413. RESTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

(a) Section 360 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 this Act:

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

(B) Section 221(i) of the Social Security Act (42 U.S.C. 411(i)).

(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 (8) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (i) through (6) as clauses (A) through (F), respectively;

(3) in clause (7), by striking "except as provided in paragraph (2)," before "the period of life of" and inserting "as provided in paragraph (2)," before "the period of life of"; and

(4) by redesignating clause (8) as clause (i) and redesignating clauses (9) through (11) as clauses (ii) through (iv), respectively.

(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 by inserting "the Secretary of Homeland Security" after "the Attorney General".

(2) REFERENCES TO THE SECRETARY OF HOME- LAND 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 "the Secretary of Homeland Security" after "the Attorney General".

(c) EFFICIENT DATES—The amendments made by this section shall be effective as of March 1, 2003.

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 (8) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (i) through (6) as clauses (A) through (F), respectively;

(3) in clause (7), by striking "except as provided in paragraph (2)," before "the period of life of" and inserting "as provided in paragraph (2)," before "the period of life of"; and

(4) by redesignating clause (8) as clause (i) and redesignating clauses (9) through (11) as clauses (ii) through (iv), respectively.

(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 by inserting "the Secretary of Homeland Security" after "the Attorney General".

(2) REFERENCES TO THE SECRETARY OF HOME- LAND 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 "the Secretary of Homeland Security" after "the Attorney General".

(c) EFFICIENT DATES—The amendments made by this section shall be effective as of March 1, 2003.

SEC. 415. COMPENSATION FOR THE SOCIAL SECUR- ITY ADVISORY BOARD.

(a) In General.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 601(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

(1) A member of the Board shall, for each day (including traveltime) during which the member is attending proceedings 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 subsection shall be effective as of January 1, 2003.

SEC. 416. 60-MONTH PERIOD OF EMPLOYMENT REQUIRE- MENTS FOR PURPOSES OF GOVERNMENT PENSION OFFSET EX- EMPTION.

(a) In General.—Section 201(5)(c) of the Social Security Act (42 U.S.C. 401(5)(c)) 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 (f) and the preceding provisions of this sub- section shall be reduced 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 for po- litical subdivision thereof, as defined in section 221(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 221(b)(1); or

"(ii) such service was being performed while in the service of the Federal Government, and is 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 211(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of
coverage described in such clause (iii) (which ever is applicable) was received or occurred on or after January 1, 1988 or
(ii) Section 215 of the Federal Employees’ Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter I of chapter 15 of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987, unless subparagraph (B) applies.

The remainder of the reduction in any benefit under this subparagraph, if not a multiple of $10, shall be rounded to the next higher multiple of $10.

(ii) Subparagraph (A)(ii) 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)(a).

(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service, employment as defined in Section 210 if such service was performed by for at least 60 months in aggregate during the period beginning January 1, 1987, and ending with the 30th day 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 for subparagraph (A), but which is payable on other than a monthly basis, shall be located on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term ‘periodic benefit’ means a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(A) 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 (g) and (paragraph (4) of this subsection’ and inserting ‘subsections (k)(5) and (g)’; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND’S INSURANCE BENEFITS.—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (5) respectively;

(B) in paragraph (2) as so redesignated, by striking ‘subsection (g) and (paragraph (2) of this subsection’ and inserting ‘subsections (k)(5) and (g)’;

(C) WIDOW’S INSURANCE BENEFITS.—Section 201(e) of the Social Security Act (42 U.S.C. 401(e)) is amended—

(A) in paragraph (2)(A), by striking ‘subsection (g), paragraph (7) of this subsection, and inserting ‘subsection (k)(5), subsection (g)’; 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 201(g) of the Social Security Act (42 U.S.C. 401(g)) is amended—

(i) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (5) respectively;

(ii) in paragraph (2) as so redesignated, by striking ‘subsection (g), paragraph (2) of this subsection, and inserting ‘subsection (k)(5), subsection (g)’.

(B) CONFORMING AMENDMENTS.—

(i) Section 201(g)(1)(D) of the Social Security Act (42 U.S.C. 401(g)(1)(D)) is amended by striking ‘paragraph (5)’ and inserting ‘paragraph (6)’.

(ii) Section 201(g)(1)(F) of the Social Security Act (42 U.S.C. 401(g)(1)(F)) is amended by striking paragraph (6) and inserting ‘paragraph (7)’.

(SUBSEQUENT PROVISIONS) The payment to the Social Security Trust Fund under this section shall be in satisfaction of certain obligations of the general fund of the Treasury that are not payable from the Federal Old-Age and Survivors Insurance Trust Fund; and

SEC. 430. POST 1956 MILITARY WAGE CREDITS.

(A) PAYMENT TO THE SOCIAL SECURITY TRUST FUND 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:

“(ii) 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) $424,971,854 to the Federal Old-Age, Survivors, and Disability Insurance Trust Fund;

(2) $103,379,671 to the Federal Disability Insurance Trust Fund; and

(3) $410,000 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain obligations for deceased wage credits for 2000 and 2001.

(B) CONFORMING AMENDMENTS.—

(i) Section 201(g)(1) of the Social Security Act (42 U.S.C. 401(g)(1)) is amended—

(A) by striking ‘(i)’, ‘(ii)’ and ‘(iii)’.

(B) by striking ‘paragraph (6)’ and inserting ‘paragraph (7)’.

SEC. 440. DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT.

(A) IN GENERAL.—The amendments made by subsections (A) and (B) of section 419 of the Social Security Act (42 U.S.C. 419) are amended—

(1) by striking ‘which is performed by the individual does not constitute employment as defined in Section 210, and

(2) by inserting ‘or (1)(3)’ after ‘or (1)(4)’.

(SUBSEQUENT PROVISIONS) The amendment made by subsection (A) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 450. POST 1956 MILITARY WAGE CREDITS.

(A) PAYMENT TO THE SOCIAL SECURITY TRUST FUND 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:

“(ii) 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) $424,971,854 to the Federal Old-Age, Survivors, and Disability Insurance Trust Fund;

(2) $103,379,671 to the Federal Disability Insurance Trust Fund; and

(3) $410,000 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain obligations for deceased wage credits for 2000 and 2001.

(B) CONFORMING AMENDMENTS.—

(i) Section 201(g)(1) of the Social Security Act (42 U.S.C. 401(g)(1)) is amended—

(A) by striking ‘(i)’, ‘(ii)’ and ‘(iii)’.

(B) by striking ‘paragraph (6)’ and inserting ‘paragraph (7)’.

SEC. 460. DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT.

(A) IN GENERAL.—The amendments made by subsections (A) and (B) of section 419 of the Social Security Act (42 U.S.C. 419) are amended—

(1) by striking ‘which is performed by the individual does not constitute employment as defined in Section 210, and

(2) by inserting ‘or (1)(3)’ after ‘or (1)(4)’.

(SUBSEQUENT PROVISIONS) The amendment made by subsection (A) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 470. POST 1956 MILITARY WAGE CREDITS.

(A) PAYMENT TO THE SOCIAL SECURITY TRUST FUND 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:

“(ii) 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) $424,971,854 to the Federal Old-Age, Survivors, and Disability Insurance Trust Fund;

(2) $103,379,671 to the Federal Disability Insurance Trust Fund; and

(3) $410,000 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain obligations for deceased wage credits for 2000 and 2001.

(B) CONFORMING AMENDMENTS.—

(i) Section 201(g)(1) of the Social Security Act (42 U.S.C. 401(g)(1)) is amended—

(A) by striking ‘(i)’, ‘(ii)’ and ‘(iii)’.

(B) by striking ‘paragraph (6)’ and inserting ‘paragraph (7)’.
performed agricultural labor for the employer on
amended by striking "and the employee has not
20-DAY AGRICULTURAL WORK TEST. — Section
Section 162(m) and inserting "section 162(l)
TAX DEDUCTION RELATING TO HEALTH INSUR-
striking
3121(g) (5) of such Code and section 210(13 (5) of
Section 209(a)(6)(B) of the Social Security Act
Revenue Code of 1986 is amended by striking
CODE—Section
"described in subsection (g)(5) ' and inserting
by this section shall apply to years beginning
after the individual retire s
vident from a church plan (as defined in section
2910(e) of such Code) after the individual retire s
2602(b)(6) is amended—
(b) EFFECTIVE DATE.—The amendments made
by this subsection shall be effective for
benefits payable for months beginning with the
7th month that begins after the date of en-
actment of this Act.

Subtitle C—Technical Amendments
SEC. 412. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.
Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—
(a) by striking "Secretary", the first place it appears and inserting "Commissioner of Social Security"; and
(b) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".
SEC. 413. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MIN-
ORS.
(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 indi
vidual from a church plan (as defined in section 414(g) of such Code) after the individual retires after the semic arena.
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after February 11, 1994.

SEC. 414. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.
(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 845(f)(3)(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. 406(b)(6)) is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".
(c) CONFORMING AMENDMENT.—Section 3101(b)(5) of the Code and section 2101(d)(3) of such Act (42 U.S.C. 4101(b)(5)) are amended by striking "or is domestic service in a private home of the employer.".

SEC. 415. TECHNICAL CORRECTIONS OF OUT-
DATED REFERENCES.
(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSUR-
ANCE.—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking "section 6624" and inserting "section 6624).
(b) AMENDMENT TO REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking the sentence of the employee beginning with "The employee has not performed agricultural labor for the employment in 28 days or more in the calendar year for cash re-
numeration computed on a time basis."
section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d)(1), in each case after 1 year after the date of enactment of this Act.

(b) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of such Code (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3150 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 (1) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (1) of such section (relating to advance payment of earned income credit).

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 "an individual who is a dependent of the social security benefits of such individual and his spouse, if any, for such month and following the date of enactment of this Act.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after such date.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NON-ADVANCED INCOME.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382c(c)) is amended by adding at the end the following:

"(1) in paragraph (19), by striking "a period of 180 days" and inserting "a period of 30 days"; and

(2) in paragraph (20), by striking "the amount of the benefit in any such period" and inserting "the amount of the benefit in any such month and following the date of enactment of this Act."

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to months that begin after the date of enactment of this Act.

SEC. 434. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUTION 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 "or fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational institution (including technical or vocational education institutions)."

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months that begin after the date of enactment of this Act.

SEC. 435. 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. 1382c(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 motion before the Committee on Ways and Means, essentially, 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. MATSU!) 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 program.

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. 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 misuse 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.

Finally, 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.

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. Of course, the gentleman from California (Mr. MATSU!) 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 that bill.

First, it increased overpayment collection by authorized recovery across Social Security and Supplemental Social Security Income program lines. It predates for a 3-year nationwide demonstration project providing direct fee withholding for qualified nonattorneys who help individuals through the complex disability application process.

Third, it provides additional funding 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 the 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.

This bill will probably not make the front page of your newspaper on kitchen tables tomorrow morning. That is unfortunate, as Social Security is one of the most important government 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.

To make clear for 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. 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 filed correctly.

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 of this legislation that has generated some controversy. This provision 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 and I have discussed this specific provision in recent debate 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 whose benefits 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 disappointed that the opportunity to address the problem was rejected in the Ways and Means Committee when the bill came before the House last April. Finally, today, my good friend from Texas (Mr. FRAZIER) 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 harmed by AARP, the Senior Citizens Legal Action Project, the Association of Administrative Law Judges, and the National Organization of Social Security Claimants' Representatives. Nearly 8 million Social Security claimants, as well, so they can get the needed help and ensure that their applications are filed correctly.

I commend the gentleman from Florida (Mr. SHAW), Mr. Speaker, I reserve the balance of my time.

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), Mr. Speaker, I reserve the balance of my time.
provisions that will help bring criminals to justice, rather than subsidizing their ability to commit more crimes by getting millions of dollars in supplemental 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 who 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 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 she knew 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. Mr. STAUR. 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 that are talking about and public employees that this might affect, they 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 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 different 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. I do not care if we have to cut a dozen other benefits 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 for their entire working life. They are career educators, and yet 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 spousal benefit 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 not a bad situation worse, because we all have Texas teachers who have committed their lives to our public school children 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. SHA W. Mr. Speaker, I yield myself such time as I may consume.

I tell the gentleman from Texas that I know he is an expert in law and 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 very 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. Speaker. 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 we 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 pay into Social Security. If they 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 in 25 years 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 how 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, they get a princely $9,300 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, roughly, about $1,300 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 is left behind, 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 $2,233 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 99 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 have great teachers. We have wonderful teachers. It is almost the exact same thing as we have here. Because of our teachers. 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 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 $3,000 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.]
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 this bill has to do with it 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 reformat 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 have to address. 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 theTicket 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 towards a 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 working together than working separately.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker. I yield 2 minutes to the distinguished woman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, 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 the good work 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 that 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.

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 owed. 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 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 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 reissuance of funds when their payments are misused. Representative payees who misuse a person’s benefits would be forced to reimburse those funds, plus 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 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 one of the pieces 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 this side of the Mississippi.

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. It is 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 is commonly 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.

The school district 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, today we see 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 giving people a break out of job, but now is the 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 will not be able to protect her 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 $4,000 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 she has a similar situation where a teacher is working 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) of Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me just quickly say I appreciate the attempt to correct some portion 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 were owed your Social Security benefits through your spouse that you deserved 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 1/3 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 their 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 $3,000 of work, they receive $93,000 on that pension; 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 had 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, when we close loopholes, we pick on the ones that are firefighters and teachers; but when we give largesse to corporations who avoid U.S. taxes, how do they get from it.

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 will affect, not one, but a 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 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 to public service in this country, 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 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 system. However, 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 constituents say they could not do their jobs without their fire fighters and police officers. and because she has paid into her pension plan, she will be adversely affected by this legislation.

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, and firefighters and police officers, we must repeal this unfair legislation.

This is money that hardworking American citizens have earned and are indeed entitled to.

I truly wish, and I intended to make the point that 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 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. 143. 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. 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 hasapproved the Homeland 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 a lifetime savings of 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 die, it is 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 those spouses die and they have been married for less than 10 years, we will not pay them their spousal benefit. I do not think this 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. Everyone was a government pension 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 urge 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? If they are fugitives, 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. Mr. Speaker, I am opposed 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 provision based on State 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.

If 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. BORMAN), 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.

Mr. MATSUI. Mr. Speaker, 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 many 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 provides 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 think why it she really wanted to come see me, but my staff had said this lady really wants to talk to you, she needs you to see. 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. She had 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 earned 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 somehow the government on the 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, 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 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, the question is: 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. A public worker, corporate, executive, other, a 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 spousal 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 retirement 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 conclude 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 extending Social Security and the 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 the Social Security Administration 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-citizens 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 teachers 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 has worked all the quarters necessary to qualify for full Social Security 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 obtaining a full Social Security spousal benefit. 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 teachers to enter the field by passing 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 other staff.

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 currently 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. 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 currently affects 335,000 people, a number that is growing by 15,000 each year. The people hit by this law 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 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 belongs to her. She would be denied these 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 263 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 urge 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, 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 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 truly 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 public employees to collect full spousal benefits.

Mr. Speaker, I urge my colleagues to show their support for teachers, and all of our hardworking public servants, by opposing this 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 have overwhelming bipartisan support. The bill fixes 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 are 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 are raising children, fighting your fires and keeping 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 are penalized for working long enough to earn a 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 last month and I was left with 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 it is too late to collect from 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 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 $400 to $40 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 six days 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 heartbreakingly that retired women comprise over 70 percent of the Social Security beneficiaries 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 financial challenges of working later in life, they may have 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 supports with the death of a loved one and a spousal benefit reduced 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 American Federation of State, County and Municipal Employees, 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 in the ages of 50 to 55. Each year the job takes its toll. After 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 undergo "moonlight," that is, hold second or even third jobs throughout their law enforcement careers in order to add income on top of Social Security.

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, ensuring 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 of retirement, they are penalized by the WEP. They will discover that they lose sixty percent (60%) of the benefit for which they were actuarily entitled. I am sure many of you are outraged by this.

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 sacrificed 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 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
February 11, 2004

CONGRESSIONAL RECORD—HOUSE

H465

House Resolution 520, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida (Mr. Shat.)

The question was taken; and the Speaker pro tempore announced that the ayes 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. Shat. Mr. Speaker, I ask unanimous consent that all Members who 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 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. 175c) 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)(2) 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 amended by striking "$1,166,666,667" and inserting "$2,100,000,000."

(3) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDES.—Section 114(g)(3) of title 23, United States Code, is amended by striking "February 29" inserting "June 30."

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 110 of the Transportation Equity Act for the 21st Century (117 Stat. 1111) is amended by striking "$3,483,458,333 for the period of October 1, 2003, through February 29, 2004" inserting "$2,720,223,000 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:

(1) LIMITATION ON 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 OBLIGATION AUTHORITY under the heading 'FEDERAL-AID HIGHWAYS' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004" (division F of Public Law 108-7), in accordance with section 110 of such Act: except that the amount of obligation limitation to be distributed for such period shall be the amount specified in section 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 provided 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); and

(B) ½ 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 for such period shall not apply to $479,000,000 in obligations for minimum guarantee for such period.

(3) TIME PERIOD FOR OBLIGATIONS.—A State shall be entitled to the funding provided for such program, project, or activity under this Act and the Surface Transportation Extension Act of 2004 through February 29, 2004. and inserting "$105,000,000 for the period of October 1, 2003, through June 30, 2004.

(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 other limitation on obligation limitations ("LIMITATION ON OBLIGATIONS") under the heading "FEDERAL-AID HIGHWAYS" in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

SEC. 3. TRANSFERS OF UNOBLIGATED APPROPRIATIONS.

Section 3 of the Surface Transportation Extension Act of 2003 (117 Stat. 1113) is amended by adding at the end the following:

"(e) LIMITATION ON OBLIGATION AUTHORITY.—Subject to any other provision of this section, no funds made available under this Act shall be obligated for the period of October 1, 2003, through 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), (3), (4), or (5)."
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. Shimkus) on which the yeas and nays are ordered.

The Clerk reads 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

NAYS—19

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, by the yeas and nays:

A motion to reconsider was laid on the table.

The question is on the motion offered by the gentleman from California (Mr. Pombo) that the House suspend the rules and pass the bill, S. 523.

The question was taken; and (two-thirds voting in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

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, by the yeas and nays:

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]
CONGRESSIONAL RECORD — HOUSE
February 11, 2004

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.

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 24 on H.R. 738, I was unavoidably detained. Had I been present, I would have voted "yea."

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. 7383.

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. 7383, on which the yeas and nays are ordered.

This will be a 3-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

Burr
Burt
Burton (IN)

DeCotis
DeCotte

Hogan
Honda
Kucinich

NATIONAL
FOOTBALL
UNIVERSITY TIGERS FOR WINNING 2003 BOWL CHAMPIONSHIP SERIES NATIONAL CHAMPIONSHIP GAME AND COMMENDING SOUTHERN ILLINOIS UNIVERSITY 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 this time for the majority leader, Mr. REED, to recognize 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 Illinois University Jaguars football team for winning the 2003 SBN Black College National Football championship, and ask for its immediate consideration.

[Resolution on file.]

Mr. BAKER. The Clerk will read the resolution.
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.

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.
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.

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.
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;
is 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;
is 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”;

Records.
(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)";

(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.—

“(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 fiscalyear, 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:
“(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
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)";

(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)."

(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 Certification, 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.—

"(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 qualified 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:

“(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,

shall be subject to,".

Applicability, 42 USC 1320a–8 note.
(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, 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"," 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."; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking "(1) If a person" and all that follows through "(2)".

Certification.

Certification.

Applicability.
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.
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 that 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 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.".

Applicability.

(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)”;

(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 (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. 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 1 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.

42 USC 903 note.
“(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 ben-
efit 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 para-
graph (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 para-
graphs (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 para-
graphs (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 “para-
graph (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 “para-
graph (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); and

(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 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."

Applicability.

(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”.

42 USC 402 note.
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.

(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 26 USC 3121(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(1)”.

(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”.


(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 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) note. 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 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."

(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. 1382c), 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.

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.

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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. 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.

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). 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.

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. 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. 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

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1 For information on H.R. 4070, see CRS Report RS21225, Social Security Program Protection Act of 2002 (H.R. 4070), by Dawn Nuschler.

2 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.

3 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.

4 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.

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.  

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).

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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. 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.

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. 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

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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%.


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.

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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.

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SOURCES: CBO and Joint Committee on Taxation.
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.
### 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**

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#### 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
- Medicare: * -4
- SSI: * 1

**Cross-Program Recovery of Overpayments**
- OASDI (off-budget): -1
- SSI: -48

**Subtotal, Title II**

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**Cap on Attorney Assessments, OASDI (off-budget)**

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**Temporary Extension of Attorney-Fee Payment System to SSI**

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**Temporary Extension of Attorney-Fee Payment System to Non-Attorney Representatives**

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**Subtotal, Title III**

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**Extension of Sunset Date for Demonstration Projects, OASDI (off-budget)**

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Continued
### ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2004 (Continued)

<table>
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<tr>
<th>By Fiscal Year, in Millions of Dollars</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
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<th>2013</th>
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<td>Coverage under Divided Retirement Systems, OASDI (off-budget)</td>
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<td>60-month Employment Requirement for Exemption from Government Pension Offset, OASDI (off-budget)</td>
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<td>Exemption to 84-month Rule for Certain Disabled Adult Children OASDI (off-budget)</td>
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<td>-7</td>
<td>-10</td>
<td>-16</td>
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</table>

**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.
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."
Increased Vigilance in Social Security Will Better Protect Seniors, Taxpayers

WASHINGTON - House lawmakers cleared the way for President George W. Bush to sign into law legislation strengthens 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.


**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 $4 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.

###
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."
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.
Cosponsors: 31
Related Bills: H.RES.168, H.RES.520, S.439

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:

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):

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<td>Referral, Markup, Reporting</td>
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<tr>
<td>Subcommittee on Social Security</td>
<td>Referral, Hearings</td>
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<td>Senate Finance</td>
<td>Referral, Markup, Reporting</td>
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RELATED BILL DETAILS: (additional related bills may be indentified in Status)

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<tr>
<td>H.RES.168</td>
<td>Rule related to H.R.743 in House</td>
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<tr>
<td>H.RES.520</td>
<td>Rule related to H.R.743 in House</td>
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<tr>
<td>S.439</td>
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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.
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 balance 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 Response 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.
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

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**OFFICE OF THE DEPUTY COMMISSIONER FOR LEGISLATION AND CONGRESSIONAL AFFAIRS**
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 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.

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.
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 nongovernmental) 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 disqualified 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.
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 nongovernmental) 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.
Senate Finance Committee Completes Action and Reports

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 expenses 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 wage 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 made after March 2004. The percentage of required reviews would increase to 50% for FY 2005 and beyond.

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.
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.

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- 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.
President Signs into Law H.R. 743, the Social Security Protection Act of 2004


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

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• 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.
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.
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 preefectuation 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.
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 preefectuation 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.