



# SOCIAL SECURITY

Office of the Commissioner

May 24, 1996

The Honorable Albert Gore, Jr.  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

Enclosed for the consideration of the Congress is a draft bill "To amend the Social Security Act and related laws to extend and amend demonstration project authority, make perfecting amendments related to tax withholding from social security benefits, make a technical clarification in the effective date of the denial of disability benefits to drug addicts and alcoholics, make administrative improvements respecting reports by prisons and certain other institutions, and address the treatment under the supplemental security income program of the disposal of resources for less than fair market value."

The draft bill contains five sections affecting the social security program or the supplemental security income program or both. The first three of the bill's sections are especially time sensitive. The final two sections, while not involving statutory deadlines, also warrant prompt consideration in view of their importance to our efforts to ensure that benefits are paid under these programs only to properly qualified individuals.

Our authority to conduct demonstration projects that test ways to encourage social security disability beneficiaries to return to work will expire on June 9 of this year unless the Congress acts to extend it. Section 1 of the draft bill would provide permanent authority to conduct demonstration projects designed to promote the objectives or facilitate the administration of the social security program, and consolidate it with the authority for demonstration projects under the supplemental security income program.

Amendments to the Internal Revenue Code of 1986 made by the Uruguay Round Agreements Act contemplated that, beginning January 1, 1997, the Social Security Administration would commence tax withholding from benefit payments at the request of beneficiaries. Section 2 of the draft bill contains a perfecting amendment respecting this provision that is essential in order for the agency to offer this service.

Section 3 contains a technical clarification to the effective date of the recently enacted provision denying disability benefits to drug addicts and alcoholics that is important to our ongoing efforts to implement this provision.

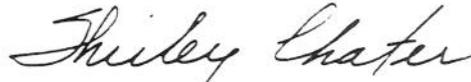
Section 4 proposes administrative improvements respecting reports by institutions concerning their inmates that are designed to promote our timely effectuation of the provisions requiring the stoppage of benefits to prisoners and similarly affected individuals.

Section 5 proposes institution of a new penalty against individuals who transfer resources in order to gain or retain eligibility under the supplemental security income program. Individuals with the means to provide for their own needs should not be allowed, at the public's expense, to transfer resources at less than fair market value.

We urge the Congress to give the enclosed draft bill its prompt and favorable consideration. An enclosure to this letter explains the bill's provisions in greater detail.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill from the standpoint of the Administration's program.

Sincerely,



Shirley S. Chater  
Commissioner  
of Social Security

Enclosures



# SOCIAL SECURITY

Office of the Commissioner

May 24, 1996

The Honorable Newt Gingrich  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

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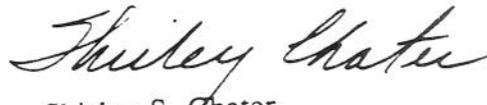
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Shirley S. Chater  
Commissioner  
of Social Security

Enclosures



# SOCIAL SECURITY

Office of the Commissioner

May 24, 1996

The Honorable Robert Dole  
Senate Majority Leader  
Washington, DC 20510

Dear Mr. Majority Leader:

Enclosed for the consideration of the Congress is a draft bill "To amend the Social Security Act and related laws to extend and amend demonstration project authority, make perfecting amendments related to tax withholding from social security benefits, make a technical clarification in the effective date of the denial of disability benefits to drug addicts and alcoholics, make administrative improvements respecting reports by prisons and certain other institutions, and address the treatment under the supplemental security income program of the disposal of resources for less than fair market value."

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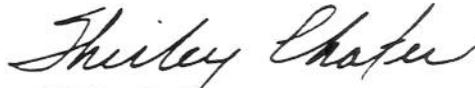
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Shirley S. Chater  
Commissioner  
of Social Security

Enclosures

## SECTION-BY-SECTION SUMMARY

### Demonstration Projects.

Under authority ~~set to expire~~ on June 9, 1996, the Commissioner may initiate experiments and demonstration projects to test ways to encourage social security disability insurance beneficiaries to return to work, and may waive compliance with certain benefit requirements in connection with these projects. Current law also provides the Commissioner with permanent authority to conduct experimental, pilot, or demonstration projects that are likely to promote the objectives, or facilitate the administration, of the supplemental security income program.

Section 1 would consolidate, expand, and make permanent the authority for the conduct of experimental, pilot, or demonstration projects that promote the objectives or facilitate the administration of the social security or the supplemental security income program.

### Perfecting Amendments Related to Tax Withholding from Social Security Benefits.

The Uruguay Round Agreements Act contained an amendment to the tax code to authorize tax withholding from social security benefits (as well as certain other payments) made after December 31, 1996, upon the explicit request of the person entitled to the payment. The amendment failed to override the Social Security Act provision that prohibits the assignment of benefits and to authorize funding to cover the Social Security Administration's costs in administering the new provision.

The amendments made by section 2 would remedy these obstacles to timely effectuation of the tax withholding provision. Subsection (a) would provide that the Social Security Act's anti-assignment provision does not apply to the withholding of taxes at the request of the beneficiary. Subsection (b) would authorize an annual appropriation to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of such sums as may be necessary to carry out the tax withholding provision.

### Perfecting Amendments With Respect to the Effective Date of the Denial of Disability Benefits to Drug Addicts and Alcoholics.

Public Law 104-121 contained, inter alia, amendments to the social security and supplemental security income disability programs providing that no individual could be considered to be disabled if alcoholism or drug addiction would otherwise be a contributing factor material to the determination of disability. The effective date of the amendments provided that they applied to anyone whose claim was finally adjudicated by the Commissioner on or after March 29, 1996, the date of the enactment of the new law; in the case of anyone whose claim had been finally adjudicated before such date, the amendments would apply commencing with benefits for months beginning on or after January 1, 1997.

Section 3 of the draft bill contains amendments that clarify the meaning of the term "final adjudication" as it is used in the effective date of the new law denying disability benefits to drug addicts and alcoholics. These amendments address the ambiguity that would otherwise exist in the application of the effective date to cases in which, on March 29, 1996, there is pending review (either administrative or judicial) of the Commissioner's denial of a claim or the Commissioner's implementation of a court remand order or readjudication pursuant to relief in a class action. The amendment makes clear that the Commissioner's decision is not a final adjudication until all administrative or judicial appeals or court-ordered readjudications have been settled. At least one court has already concluded that it can award benefits through January 1, 1997, because the Commissioner's decision denying benefits in the case was issued before March 29.

#### Administrative Improvements Respecting Reports by Prisons and Certain Other Institutions.

Under current law, social security benefits are not payable to an individual for any month during which the individual is confined in a penal institution pursuant to conviction for an offense punishable by imprisonment for more than one year or is confined by court order in an institution at public expense in connection with a verdict or finding that the individual is guilty but insane, not guilty by reason of insanity, incompetent to stand trial, or a similar verdict or finding based on similar factors with respect to a criminal offense so punishable.

Current law with respect to the supplemental security income (SSI) program provides, subject to multiple exceptions, that SSI benefits are not payable with respect to any month throughout which an otherwise eligible individual is an inmate of a public institution. None of the exceptions apply to prisoners or other individuals confined at public expense in connection with a criminal offense.

Current law requires federal, state, and local agencies to make available, upon the written request of the Commissioner of Social Security, the name and social security account number (SSN) of any individual confined as a result of a conviction (or other finding related to the individual's mental competence) in connection with a crime punishable by imprisonment for more than one year. The law does not specify how frequently institutions must report to the Commissioner, or impose penalties for failure to comply with the Commissioner's request for information. Any information furnished by an institution in automated form is subject to the special requirements of the Privacy Act applicable to computer matching programs, including requirements for various public notices, and a written agreement between the parties that must be approved by the Social Security Administration's Data Integrity Board and re-executed with full approvals every 30 months.

The amendments made by subsection (a) of section 4 are intended to promote the timely effectuation of the prisoner nonpayment provisions by authorizing the Commissioner to enter into agreements with willing state and local institutions under which the Commissioner would pay the institution \$400 for each report of a newly admitted inmate who is a social

security or SSI beneficiary (or dually entitled beneficiary) whose benefits are subject to nonpayment if the report is made within 30 days of the inmate's admission to the institution, or \$200 if the report is made between 31 and 90 days following such inmate's admission. The amendments made by subsection (a) would be temporary (through 2001) so that their effectiveness could be analyzed before they became permanent.

The amendments made by subsection (b) provide an exemption from the Privacy Act's computer matching requirements. The specific purpose of the prisoner nonpayment provisions, as well as the general interests of economy and efficiency in program administration, are served by promoting the use of automation in the exchange of data required by those provisions. Since there are in excess of 3,500 state and local penal institutions, the application of the Privacy Act's procedural requirements to computer matching agreements between the Commissioner and those institutions would impose an excessively costly administrative burden that could hamper administration of the prisoner nonpayment provisions. Related provisions of the Privacy Act specifying the procedures to be followed in connection with an adverse action taken with respect to a federal benefit as a result of information from a matching program are unnecessary, since they provide few safeguards beyond those already followed by the Social Security Administration pursuant to the Social Security Act and related laws.

Section 4 additionally would require the Commissioner to provide the Congress by October 1, 1998, with lists of those institutions complying with the reporting requirements of the law and those which are not.

#### Disposal of Resources for Less than Fair Market Value.

Current law contains no prohibition against the transfer by an individual of some or all of his or her resources in order to gain eligibility for supplemental security income (SSI) benefits. (Between 1981 and 1988 a penalty did apply to such transfers: the uncompensated value of the transferred resource was included in the individual's resources for a 24-month period following the month of transfer. Congress repealed this provision, in part, because of its arbitrariness in applying the same 24-month penalty regardless of the uncompensated value of the transferred resource.)

The amendment made by section 5 would institute a new penalty for such transfers that is tailored to the magnitude of the transaction. Specifically, any individual who, in order to become eligible for SSI benefits or to preserve such eligibility, disposes of resources at less than fair market value shall be ineligible for such benefits for a period of months equal to the number obtained by dividing the uncompensated value of the transferred resources by the federal benefit rate in force in the month of application or, if later, the month of the transfer.

The penalty would not apply in any case in which the Commissioner determines that the individual intended to dispose of the resources at fair market value, the transfer occurred for a purpose other than to qualify for SSI benefits, the transferred resources have been returned to the individual, or the denial of eligibility would work an undue hardship on the individual.

A B I L L

o amend the Social Security Act and related laws to extend and amend demonstration project authority, make perfecting amendments related to tax withholding from social security benefits, make a technical clarification in the effective date of the denial of disability benefits to drug addicts and alcoholics, make administrative improvements respecting reports by prisons and certain other institutions, and address the treatment under the supplemental security income program of the disposal of resources for less than fair market value.

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

SECTION 1. DEMONSTRATION PROJECTS.

(a) In General.--Section 1110 of the Social Security Act is amended--

(1) in the title, by striking "OR" and inserting "AND";

(2) by striking "(a) (1)" and inserting "(a) Cooperative Research.--(1)"; and

(3) by amending subsection (b) to read as follows:

"(b) Demonstration Projects.--

"(1) In general.--The Commissioner of Social Security is authorized to carry out any experimental, pilot, or demonstration project that, in the Commissioner's judgment,

is likely to assist in promoting the objectives or facilitating the administration of title II or title XVI of this Act.

"(2) Waiver and other special authority.--In order to permit a thorough evaluation of any alternative being considered in any project carried out under this subsection--

"(A) the Commissioner is authorized--

"(i) to waive any of the requirements, conditions, or limitations of title II or title XVI (or to waive them only for specified purposes), and

"(ii) to impose additional requirements, conditions, or limitations respecting benefits payable under, or the administration of, such titles; and

"(B) the Secretary of Health and Human Services, upon the request of the Commissioner, is authorized--

"(i) to waive any of the requirements, conditions, or limitations of title XVIII or title XIX (or to waive them only for specified purposes), and

"(ii) to impose additional requirements, conditions, or limitations respecting medical assistance under such titles, in connection with any project to promote the objectives or facilitate the administration of title II or title XVI.

"(3) Limitation on SSI projects.--With respect to the participation of recipients of supplemental security income benefits payable under title XVI in any project under this subsection--

"(A) the Commissioner is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of the individual's participation in the project;

"(B) the Commissioner may not require any individual to participate in a project, and the Commissioner shall assure that--

"(i) the voluntary participation of each individual in a project is evidenced through informed written consent; and

"(ii) any individual's voluntary agreement to

participate in a project may be revoked by the individual at any time; and

"(C) the Commissioner shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients.

"(4) Grants and Contracts.--The Commissioner may make grants to, and enter into contracts with, any agency, organization, or other entity, for the purpose of assisting the Commissioner in carrying out any project under this subsection.

"(5) Cost allocation.--

"(A) OASDI and SSI projects.--Any costs for benefits under or administration of any project authorized by this subsection (including planning, reviewing, or evaluating a project) in excess of those that would have been incurred without regard to the project, shall be met by the Commissioner from amounts available for this purpose from the Federal Old-Age Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or appropriations made to carry out title XVI, as appropriate.

"(B) Coordinated projects.--The cost of any such

project that is carried out in coordination with one or more related projects, including projects authorized under other titles of this Act, shall be allocated among the Trust Funds involved and the appropriations available for such projects in a manner determined by the Commissioner with respect to the old-age, survivors, and disability insurance programs under title II and the supplemental security income program under title XVI, and by the Secretary with respect to other titles of this Act, taking into consideration the programs (or types of benefits) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit.

"(C) Reimbursement of State costs.--

"(i) If, in order to carry out a project to promote the objectives or facilitate the administration of title XVI, the Commissioner requests a State to make supplementary payments (or the Commissioner makes them pursuant to an agreement under section 1616 of this Act or section 212(b) of Public Law 93-66) to individuals

who are not eligible therefor, the Commissioner--

"(I) from amounts appropriated to carry out title XVI, shall reimburse such State for the amount by which the cost of such payments exceeds the cost that the State would otherwise have incurred in the absence of such request, and

"(II) shall waive any administrative fee that would otherwise be required by section 1616(d) in the case of a supplementary payment made at the Commissioner's request to an ineligible individual.

"(ii) If, in order to carry out a project under this subsection, the Secretary (pursuant to a request of the Commissioner) requests a State to provide medical assistance under its plan approved under title XIX to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not provide such medical assistance, the Secretary shall reimburse such State for the non-federal share of such assistance from amounts appropriated to carry

out title XVI, which shall be provided by the  
Commissioner to the Secretary for this purpose."

(b) Conforming Amendment.--Section 201(k) of such Act is amended by striking "experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980" and inserting "experimental, pilot, or demonstration projects respecting this title that are conducted pursuant to section 1110(b)".

(c) Repeal.--Section 505 of the Social Security Disability Amendments of 1980 is repealed.

SEC. 2. PERFECTING AMENDMENTS RELATED TO TAX WITHHOLDING FROM SOCIAL SECURITY BENEFITS.

(a) Inapplicability of Assignment Prohibition.--Section 207 of the Social Security Act is amended by adding at the end a new subsection as follows:

"(c) This section shall not be construed to prohibit withholding taxes from any benefit under this title provided that such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit."

(b) Authorization of Appropriations.--Section 201 of such Act is amended by adding at the end a new subsection as follows:

"(n) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for fiscal year 1997 and each fiscal year thereafter such sums as may be necessary to carry out tax withholding from benefits under this title pursuant to section 3402(p)(1) of the Internal Revenue Code of 1986."

SEC. 3. PERFECTING AMENDMENTS WITH RESPECT TO THE EFFECTIVE DATE OF THE DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) In General.--

(1) Amendment relating to social security disability benefits.--Section 105(a)(5)(A) of the Contract with America Advancement Act of 1996 (Public Law 104-121) is amended--

(A) by striking "by the Commissioner of Social Security" and "by the Commissioner"; and

(B) by adding at the end the following new sentence: "For purposes of this subparagraph, no individual's claim with respect to such benefits may be considered to be finally adjudicated before the date of the enactment of this Act if, on or after such date, there is pending a request for either administrative or judicial review with respect to any claim that has been denied in whole, or if there is pending, with respect

to any claim, readjudication by the Commissioner pursuant to relief in a class action or implementation by the Commissioner of a court remand order."

(2) Amendment relating to supplemental security income disability benefits.--Section 105(b)(5)(A) of such Act is amended--

(A) by striking "by the Commissioner of Social Security" and "by the Commissioner"; and

(B) by adding at the end the following new sentence: "For purposes of this subparagraph, no individual's claim with respect to such benefits may be considered to be finally adjudicated before the date of the enactment of this Act if, on or after such date, there is pending a request for either administrative or judicial review with respect to any claim that has been denied in whole, or if there is pending, with respect to any claim, readjudication by the Commissioner pursuant to relief in a class action or implementation by the Commissioner of a court remand order."

(b) Effective Date.--The amendments made by this section shall be effective as though they had been included in the enactment of section 105 of the Contract with America Advancement

Act of 1996 (Public Law 104-121).

SEC. 4. ADMINISTRATIVE IMPROVEMENTS RESPECTING REPORTS BY PRISONS AND CERTAIN OTHER INSTITUTIONS.

(a) Compliance Incentives.--

(1) OASDI.--Section 202(x)(3) of the Social Security

Act is amended--

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following:

"(B)(i) The Commissioner may enter into an agreement with any interested State or local institution described in clause (i) or (ii) of paragraph (1)(A) the primary purpose of which is to confine individuals as described in paragraph (1)(A), under which--

"(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the--

"(aa) name,

"(bb) social security account number,

"(cc) confinement commencement date, and

"(dd) to the extent available to the institution,

such other information as the Commissioner may require for the purpose of carrying out this subsection

with respect to each individual currently confined in the institution (including any individual whose confinement began before the effective date of the agreement); and

"(II) the Commissioner shall pay to the institution, with respect to each individual confined therein to whom paragraph (1) applies and to whom a benefit under this title would otherwise be paid for the first month in which the institution provides the Commissioner with the information specified in divisions (aa), (bb), and (cc) of subclause (I) with respect to such individual --

"(aa) \$400 (reduced as may be required by clause (ii)), if the institution provides such information within 30 days after the date such individual's confinement in such institution began, or

"(bb) \$200 (reduced as may be required by clause (ii)), if the institution provides such information after 30 days, but within 90 days, following such date.

"(ii) The dollar amounts specified in clause (i)(II) shall be reduced by fifty percent if the Commissioner is also required to make a payment to the institution with respect to the same individual pursuant to section 1611(e)(1)(I).

"(iii) There shall be transferred from the Federal Old-Age

and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make the payments to institutions required by clause (i)(II). Sums so transferred shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985."

(2) SSI.--Section 1611(e)(1) of such Act is amended by adding at the end the following:

"(I)(i) The Commissioner may enter into an agreement with any interested State or local institution referred to in subparagraph (A), under which--

"(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the--

"(aa) name,

"(bb) social security account number,

"(cc) confinement or residence commencement date,

and

"(dd) to the extent available to the institution, such other information as the Commissioner may require for the purpose of carrying out this paragraph with respect to each of the institution's current inmates

(including inmates whose confinement or residence began before the effective date of the agreement); and

"(II) the Commissioner shall pay to the institution, with respect to each inmate thereof who receives a benefit under this title for the first month in which the institution provides the Commissioner with the information specified in divisions (aa), (bb), and (cc) of subclause (I) with respect to such individual and who is precluded from being an eligible individual or eligible spouse pursuant to subparagraph (A) for that month or the following month--

"(aa) \$400 (reduced as may be required by clause (ii)), if the institution provides such information within 30 days after the date such individual becomes an inmate of such institution, or

"(bb) \$200 (reduced as may be required by clause (ii)), if the institution provides such information after 30 days, but within 90 days, following such date.

"(ii) The dollar amounts specified in clause (i)(II) shall be reduced by fifty percent if the Commissioner is also required to make a payment to the institution with respect to the same individual pursuant to section 202(x)(3)(B).

"(iii) Payments to institutions required by clause (i)(II)

shall be made from funds otherwise available for the payment of benefits under this title and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985."

(b) Exemption from Computer Matching Requirements--Section 552a(a)(8)(B) of title 5, United States Code, is amended by--

- (1) striking "or" at the end of clause (vi),
- (2) adding "or" at the end of clause (vii), and
- (3) adding at the end the following new clause:

"(viii) matches performed pursuant to section 202(x) or 1611(e)(1) of the Social Security Act."

(c) Effective Date.--The payments described in sections 202(x)(3)(B)(i)(II) and 1611(e)(1)(I)(i)(II) of the Social Security Act (as added by the amendments made by subsection (a) of this section) shall be payable only with respect to individuals whose period of confinement or residence in an institution commences on or after the first day of the seventh month beginning after the month in which this Act is enacted.

(d) Disclosure of Information.--The Commissioner is authorized to provide information obtained through this section to any Federal cash, food, or medical assistance program for eligibility determination purposes, consistent with section

552(a) of Title 5 United States Code.

(e) Report to Congress.--By October 1, 1998, the Commissioner of Social Security shall provide the Senate Committee on Finance and the House Committee on Ways and Means with a list of the institutions (described in subparagraph (A) of section 202(x)(1) of the Social Security Act) that are providing to the Commissioner the information described in such section (as amended by subsection (a)(1) of this section) and a list of such institutions that are not providing such information to the Commissioner.

(f) Sunset Provision.--The amendments made by subsection (a) of this section shall be effective only with respect to information received by the Commissioner of Social Security prior to January 1, 2002.

SEC. 5. DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.

(a) In General.--Section 1613(c) of the Social Security Act is amended--

(1) in the caption, by striking "Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking "(2)" and inserting "(B)";

(4) by striking "(c)(1)" and inserting "(2)(A)";

(5) by inserting before paragraph (2) (as redesignated by paragraph (4) of this subsection) the following:

"(c)(1) Penalty.--

"(A)(i) If an individual or the spouse of such an individual disposes of resources for less than fair market value on or after the look-back date specified in subclause (I) of clause (ii), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

"(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the individual (or the spouse of such individual) disposes of resources for less than fair market value.

"(iii) The date specified in this clause is the first day of the first month that follows the month in which

resources were transferred for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

"(iv) The number of months of ineligibility under this clause for an individual shall be equal to--

"(I) the total, cumulative uncompensated value of all resources transferred by the individual (or the spouse of such individual) on or after the look-back date specified in subclause (I) of clause (ii), divided by

"(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which occurs the date specified in subclause (II) of clause (ii).

"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that--

"(i) the individual intended to dispose of the resources at fair market value;

"(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;

"(iii) all resources transferred for less than fair market value have been returned to the individual; or

"(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

"(D) In the case of a transfer by the spouse of an individual that results in a period of ineligibility for such individual under subparagraph (A), the Commissioner shall apportion such period of ineligibility (or any portion of such period) among the individual and the individual's spouse if the spouse otherwise becomes eligible for benefits

under this title.

"(E) For purposes of this paragraph, the term 'benefits under this title' includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66).".

(b) Conforming Amendments.--Section 1613(c)(2) of the Social Security Act (as redesignated by subsection (a) of this section) is amended--

(1) by striking "(2)(A)" and inserting "(2) Notice.--

(A)";

(2) in subparagraph (A)(i)--

(i) by inserting "paragraph (1) and" after "provisions of";

(ii) by striking "title XIX" the first place such phrase appears and inserting "this title and title XIX, respectively,";

(iii) by striking "subparagraph (B)" and inserting "clause (ii)"; and

(iv) by striking "paragraph (2)" and inserting "subparagraph (B)";

(3) in subparagraph (A)(ii)--

(i) by striking "by the State agency"; and

(ii) by striking "section 1917(c)" and all that follows and inserting "paragraph (1) or section 1917(c)."; and

(4) in subparagraph (B), by striking "paragraph (1)(B)" and inserting "subparagraph (A)(ii)".

(c) Effective Date.--The amendments made by this section shall be effective with respect to transfers of resources for less than fair market value that occur 90 or more days after the date of enactment of this Act.