



SOCIAL SECURITY

The Commissioner

December 2, 2009

The Honorable Joseph R Biden
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed for Congress' consideration is the Administration's bill to amend titles II and XVI of the Social Security Act. These amendments would simplify and improve certain aspects of the Old-Age, Survivors, and Disability Insurance programs and the Supplemental Security Income (SSI) program. The bill includes provisions that would improve work incentives for Social Security disability claimants. I have enclosed a section-by-section description of the proposals.

As you know, we are struggling to balance new responsibilities with our traditional workloads, all within tight resource constraints. With that in mind, I would like to call your attention to several provisions that would provide administrative simplifications, allowing us to make the most efficient use of our resources.

Section 101 would terminate stepchild's benefits the month before the month in which the divorce between the stepchild's parent and the number holder becomes final consistent with the termination month for the parent (i.e., the former spouse of the number holder) rather than the month the divorce becomes final.

Section 201 would simplify the administration of the SSI program by eliminating the "dedicated account" requirements. The proposal would eliminate the labor-intensive and confusing requirement that a representative payee deposit past-due child benefits into a special account when those benefits exceed six times the maximum monthly benefit amount.

Section 301 would allow us to refer to vocational rehabilitation and to One-Stop Career Centers those applicants who were denied benefits. For such applicants, appropriate VR services might have a salutary effect on their health and enable them to enter and remain in the workforce when they otherwise might not, thereby reducing the incidence of subsequent applications for disability benefits. Individuals ineligible for VR services could benefit from services provided by Department of Labor One-Stop Career Centers.

Section 304 would simplify the obligations of parent and spousal representative payees. It would eliminate the requirement that those representative payees annually account for how they expended the benefits of their children and spouses. The annual representative payee accounting process is costly and requires a high level of administrative effort. Parents and spouses are most often the best payees, and there is little evidence that they are prone to misusing the benefits of

their children and spouses. We would retain, however, the authority to investigate any allegation or indication that parents or spouses were misusing benefits.

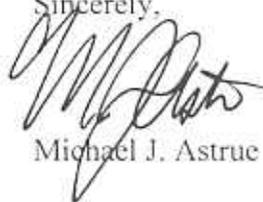
Section 305 would delay the payment of any past-due benefits due any person who is a prisoner, fugitive felon, or probation or parole violator. We would not pay these benefits until the person is no longer a prisoner, fugitive felon, or probation or parole violator consistent with the prohibition against monthly benefits.

Section 306 would exempt fugitive felon matching agreements from the Computer Matching and Privacy Protection Act, just as prisoner matching agreements are exempted from it.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation from the standpoint of the Administration's program. We urge Congress to give this bill prompt and favorable consideration.

I am sending an identical letter to the Honorable Nancy Pelosi, Speaker of the House.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Astruc", written over the printed name.

Michael J. Astruc

Enclosures



SOCIAL SECURITY

The Commissioner

December 2, 2009

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

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Section 301 would allow us to refer to vocational rehabilitation and to One-Stop Career Centers those applicants who were denied benefits. For such applicants, appropriate VR services might have a salutary effect on their health and enable them to enter and remain in the workforce when they otherwise might not, thereby reducing the incidence of subsequent applications for disability benefits. Individuals ineligible for VR services could benefit from services provided by Department of Labor One-Stop Career Centers.

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their children and spouses. We would retain, however, the authority to investigate any allegation or indication that parents or spouses were misusing benefits.

Section 305 would delay the payment of any past-due benefits due any person who is a prisoner, fugitive felon, or probation or parole violator. We would not pay these benefits until the person is no longer a prisoner, fugitive felon, or probation or parole violator consistent with the prohibition against monthly benefits.

Section 306 would exempt fugitive felon matching agreements from the Computer Matching and Privacy Protection Act, just as prisoner matching agreements are exempted from it.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation from the standpoint of the Administration's program. We urge Congress to give this bill prompt and favorable consideration.

I am sending an identical letter to the Honorable Joseph R. Biden, Jr., President of the Senate.

Sincerely

A handwritten signature in black ink, appearing to read "M. Astrue", written over the printed name.

Michael J. Astrue

Enclosures

A BILL

To amend the Social Security Act and related laws to make various improvements in the old-age, survivors and disability insurance program and the supplemental security income program, 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; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Social Security Miscellaneous Amendments of 2009".

(b) Table of Contents.--The table of contents for this Act is as follows:

TITLE I--PROVISIONS RELATING TO THE
OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAMS

Sec. 101. Stepchild's Benefit Termination Month.

Sec. 102. Date of Suspension of Benefits to Persons
Removed from the United States.

Sec. 103. Suspend Benefits for Auxiliary and Dependent
Beneficiaries Removed from the United States.

Sec. 104. Eliminate Quinquennial Military Service
Determinations for OASDI.

TITLE II-- PROVISION RELATING TO THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 201. Eliminate Supplemental Security Income Dedicated Accounts.

TITLE III—MISCELLANEOUS PROVISIONS AND PROVISIONS RELATING TO THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM AND THE SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 301. Referral to State Vocational Rehabilitation (VR) Agencies and Department of Labor One Stop Centers for Denied Disability Claimants.

Sec. 302. Authority to Reimburse State Vocational Rehabilitation Agencies for the Cost of Services They Provide to Certain Beneficiaries.

Sec. 303. Allow State Disability Determination Services Reconsiderations on Disability Cessations Made by the Commissioner.

Sec. 304. Eliminate the Requirement for Parents with Custody of Their Children and Spouses Living With Beneficiaries to Provide Annual Accountings

Sec. 305. Prohibit Retroactive Title II and Title XVI Payments to Prisoners, Fugitive Felons, and Probation/Parole Violators.

Sec. 306. Allow Agreements to Identify Fugitive Felons and Probation/Parole Violators Similar to Prisoner Computer Matching Agreements.

Sec. 307. Clarify Penalties Related to Misleading Internet Advertising.

Sec. 308. Provide SSA with the Authority to Certify the Amount of Benefits Payable to a Divorced Spouse of a Railroad Worker to the Railroad Retirement Board.

Sec. 309. Eliminate Obsolete Provisions.

TITLE I--PROVISIONS RELATING TO THE
OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAMS

SEC. 101. STEPCHILD'S BENEFIT TERMINATION MONTH.

(a) In General.--Section 202(d)(1)(H) of the Social Security Act (42 U.S.C. 402(d)(1)(H)) is amended by striking "after the month".

(b) Effective Date.--The amendment made by this section shall be effective with respect to divorces that become final after the sixth month that begins after the month of the enactment of this Act.

SEC. 102. DATE OF SUSPENSION OF BENEFITS TO PERSONS REMOVED 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)--

(A) by deleting "removed" and inserting "issued an order of removal",

(B) in subparagraph (A) by deleting "the Commissioner of Social Security is notified by the Attorney General or the Secretary of Homeland Security that such individual has been so removed" and inserting "such order of removal for such individual has become final", and

(C) in subparagraph (C) by deleting "such notice is received" and inserting "such order of removal has become final";

(2) in paragraph (2)-

(A) by deleting "the removal of" and inserting "an order of removal for",

(B) by inserting "has become final" after "of such Act", and

(C) by deleting "such removal" and inserting "the date such order of removal became final"; and

(3) by deleting paragraph (3).

(b) Effective Date.-The amendments made by this section shall be effective with respect to orders of removal that become final after the month of enactment.

SEC. 103. SUSPEND BENEFITS FOR AUXILIARY AND DEPENDENT BENEFICIARIES REMOVED FROM THE UNITED STATES.

(a) In General.--Section 202(n)(1)(A) of the Social Security Act is amended by striking ", on the basis of his wages and self-employment income,".

(b) Effective Date.--The amendment made by this section shall apply to any individual with respect to whose removal from the United States the Commissioner of Social Security receives notification from the Attorney General or the Secretary of

Homeland Security after the twelfth month that begins after enactment of this Act.

SEC. 104. ELIMINATE QUINQUENNIAL MILITARY SERVICE
DETERMINATIONS FOR OASDI.

- (a) Section 217(g)(2) of the Social Security Act is amended—
- (1) in the first sentence by inserting "through 2005" after "each fifth year thereafter"; and
 - (2) by adding after the first sentence the following new sentence: "The Secretary shall revise the amount determined under paragraph (1) with respect to the Federal Hospital Insurance Trust Fund under title XVIII in 2010 and each fifth year thereafter through such date, and using such data, as the Secretary determines appropriate, on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 1817(b)."

(b) Effective date: The amendments made by this section shall be effective upon enactment.

TITLE II-- PROVISION RELATING TO THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 201. ELIMINATE SUPPLEMENTAL SECURITY INCOME DEDICATED
ACCOUNTS.

- (a) In General.--Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended--
- (1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(b) Transitional Treatment of Funds Previously Subject to the Dedicated Account Requirement.--

(1) In determining the eligibility and benefit amount of any individual (and the individual's eligible spouse, if any) under title XVI of the Social Security Act for any month in the period specified in paragraph (2), there shall be excluded from such individual's (and such spouse's)--

(A) resources, any amount held in an account that, prior to the date of the enactment of this Act, had been established and maintained in accordance with section 1631(a)(2)(F) (as in effect prior to such date), but only to the extent that such amount does not exceed the amount held in such account at the close of the day preceding such date; and

(B) income, the interest or other earnings of any amount excluded from resources under subparagraph (A).

(2) The period specified in this paragraph begins on the date of the enactment of this Act and ends on the last day of the eighteenth month beginning on or after such date of enactment.

(c) Conforming Amendments.--

(1) Section 1612(b) (42 U.S.C. 1382a(b)) (as previously amended by section 2 of this Act) is further amended--

(A) by striking paragraph (21); and

(B) by redesignating paragraphs (22), (23), (24), and (25) as paragraphs (21), (22), (23) and (24), respectively.

(2) Section 1613(a) (42 U.S.C. 1382b(a)) is amended--

(A) by striking paragraph (12); and
(B) by redesignating paragraphs (13), (14), (15),
and (16) as paragraph (12), (13), (14), and (15)
respectively.

TITLE III—MISCELLANEOUS PROVISIONS AND PROVISIONS RELATING TO
THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM AND THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 301. REFERRAL TO STATE VOCATIONAL REHABILITATION AGENCIES
AND DEPARTMENT OF LABOR ONE-STOP CAREER CENTERS FOR
DENIED DISABILITY CLAIMANTS.

(a) Title II Amendment-- Section 222 of the Social
Security Act (42 U.S.C. 422) is amended by inserting the
following new subsection:

"(a) In any case where an individual's application for
a determination of disability or for benefits based on
disability under this title is denied, the Commissioner
of Social Security may refer such individual (or arrange
for the State agency acting under section 221 to refer
such individual) to a One-Stop Career Center established
under section 121 of the Workforce Investment Act of
1998 (Public Law 105-220) and the appropriate State
agency administering the State plan for vocational
rehabilitation services approved under title I of the
Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.)."

• (b) Title XVI Amendment-- Section 1615 of such Act
(42 U.S.C. 1382d) is amended by inserting after
subsection (a) the following new subsection:

"(b) In any case where an individual's application for benefits based on disability or blindness under this title is denied, the Commissioner of Social Security may refer such individual (or arrange for the State agency acting under section 221 to refer such individual) to a One-Stop Career Center established under section 121 of the Workforce Investment Act of 1998 (Public Law 105-220) and the appropriate State agency administering the State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.) or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State program under title V."

(c) Effective Date.--The amendments made by this section shall be effective for applications for benefits filed in months following the sixth month after enactment.

SEC. 302. AUTHORITY TO REIMBURSE STATE VOCATIONAL
REHABILITATION AGENCIES FOR THE COST OF SERVICES
THEY PROVIDE TO CERTAIN BENEFICIARIES.

(a) Title II Amendment--Section 222(d)(1) of the Social Security Act (42 U.S.C. 422(d)(1)) is amended:

(1) in the first sentence--

(A) by inserting "and" before "(ii)"; and

(B) by striking ", and (iii)" and all that follows through "successful rehabilitation"; and

(2) in the last sentence, by striking ", the determination that an individual, without good cause" and all that follows through "successful rehabilitation,".

(b) Title XVI Amendment--Section 1615(d) of such Act (42 U.S.C. 1382d(d)) is amended:

(1) in the first sentence--

(A) by striking "who are referred for such services pursuant to subsection (a)" and inserting "receiving benefits based on disability or blindness under this title";

(B) by inserting "and" before "(2)"; and

(C) by striking ", and (3)" and all that follows through "successful rehabilitation"; and

(2) in the last sentence, by striking ", the determination that an individual, without good cause" and all that follows through "successful rehabilitation,".

SEC. 303. ALLOW STATE DISABILITY DETERMINATION SERVICES
RECONSIDERATIONS ON DISABILITY CESSATIONS MADE BY
THE COMMISSIONER.

(a) In General--Section 205(b)(2) of the Social Security Act is amended--

(1) in the second sentence, by striking everything following "or the Commissioner of Social Security" and inserting a period;

(2) in the third sentence, by striking "which was originally made by such State agency"; and

(3) in the fourth sentence, by striking "which was originally made by the Commissioner of Social Security".

(b) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to cases pending on or after such date.

SEC. 304. ELIMINATE THE REQUIREMENT FOR PARENTS WITH
CUSTODY OF THEIR CHILDREN AND SPOUSES LIVING WITH
BENEFICIAIRES TO PROVIDE ANNUAL ACCOUNTINGS.

(a) Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) is amended as follows:

(1) by redesignating subparagraph (B) as subparagraph (B)(i); and

(2) by redesignating subparagraph (C) as clause (ii) of subparagraph (B); and

(3) by inserting after subparagraph (B), the following:

"(C) Subparagraph (A) shall not apply in any case in which the representative payee is a parent or spouse of the individual entitled to such payment and such parent or spouse lives in the same household as such individual. The Commissioner of Social Security shall prescribe by regulation applicable monitoring procedures to confirm ongoing custodial relationships and living arrangements for such parents and spouses."

(b) Section 807(h)(1) of the Social Security Act (42 U.S.C. 1007(h)(1)) is amended as follows:

(1) by inserting "(A)" after "In General"; and

(2) by inserting after subparagraph (A) the following:

"(B) Exception in Cases in which the Representative Payee is the Spouse of the Beneficiary--Subparagraph (A) shall not apply in a case in which the person to whom payment is made is the spouse of the qualified individual entitled to such payment, and such spouse lives in the same household as such qualified individual. The Commissioner of Social Security shall prescribe in regulations applicable monitoring

procedures to confirm ongoing living arrangements for such spouses."

(c) Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end thereof the following new clause:

"(vi) clause (i) shall not apply in any case in which the representative payee is a parent or spouse of the individual entitled to such payment and such parent or spouse lives in the same household as such individual. The Commissioner of Social Security shall prescribe in regulations applicable monitoring procedures to confirm ongoing custodial relationships and living arrangements for such parents and spouses."

(d) The amendments made by this section shall be effective with respect to services performed after September 30, 2009.

Sec. 305. PROHIBIT RETROACTIVE TITLE II AND TITLE XVI
PAYMENTS TO PRISONERS, FUGITIVE FELONS, AND
PROBATION/PAROLE VIOLATORS.

(a) Title II Amendment--Section 204(a)(1)(B) of the Social Security Act is amended--

(1) by striking "(B) With" and inserting "(B)(i) Subject to clause (ii), with"; and

(2) by inserting at the end the following:

"(ii) No payment shall be made under this subparagraph to any person whose monthly benefit--

"(I) is subject to nonpayment by reason of section 202(x)(1), or

"(II) in the case of an individual whose benefits terminated for a reason other than death, would

be subject to nonpayment by reason of section 202(x)(1) but for the termination of benefits, until such nonpayment provision no longer applies, or would no longer apply in the case of benefits that have terminated.

"(iii) The provisions of clause (ii) shall not limit the Commissioner's authority to withhold amounts, make adjustments, or recover amounts due under this title, title VIII or title XVI that would be deducted from a payment otherwise made to such person."

(b) Title XVI Amendment--Section 1631(b) of the Social Security Act is amended by adding at the end a new paragraph (7) as follows:

"(7) (A) In the case of payment of less than the correct amount of benefits, no payment shall be made to any person who is not considered to be an eligible individual or eligible spouse under--

"(i) section 1611(e)(1) if the person is an inmate of a public institution that is a jail, prison, or other penal institution or correctional facility the purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii)-(iii), or

"(ii) section 1611(e)(4), until such person is no longer considered an ineligible individual or ineligible spouse under section 1611(e)(1) or 1611(e)(4).

"(B) The provisions of subparagraph (A) shall not limit the Commissioner's authority to withhold amounts, make adjustments, or recover amounts due under this title, title

VIII or title XVI that would be deducted from a payment otherwise made to such person."

(c) Effective Date--The amendments made by this section shall be effective for payments that would otherwise be made on or after the date of enactment of this Act.

SEC. 306. ALLOW AGREEMENTS TO IDENTIFY FUGITIVE FELONS AND PROBATION/PAROLE VIOLATORS SIMILAR TO PRISONER COMPUTER MATCHING AGREEMENTS.

(a) Title II Amendment--Section 202(x)(3) of the Social Security Act is amended by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

"(C) The Commissioner may enter into an agreement under this subparagraph with any interested Federal, State or local law enforcement agency responsible for apprehending or supervising individuals described in section 202(x)(1)(A)(iv)-(v). Under such agreement, the law enforcement agency shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, and other identifying information concerning the individuals as the Commissioner may require for the purpose of carrying out paragraph (1) and other provisions of this title."

(b) Title XVI Amendment--Section 1611(e)(1) of the Social Security Act is amended by redesignating subparagraph (J) as subparagraph (K) and inserting after subparagraph (I) the following new subparagraph:

"(J) The Commissioner may enter into an agreement with

any interested Federal, State or local law enforcement agency responsible for apprehending or supervising individuals described in section 1611(e) (4). Under such agreement, the law enforcement agency shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, and other identifying information concerning the individuals as the Commissioner may require for the purpose of carrying out paragraph (4) and other provisions of this title."

SEC. 307. CLARIFY PENALTIES RELATED TO MISLEADING INTERNET ADVERTISING.

Section 1140(a) (1) of the Social Security Act is amended in the matter preceding subparagraph (A) by inserting "(including internet communications)," after "other communication".

SEC. 308. PROVIDE SSA WITH THE AUTHORITY TO CERTIFY THE AMOUNT OF BENEFITS PAYABLE TO A DIVORCED SPOUSE OF A RAILROAD WORKER TO THE RAILROAD RETIREMENT BOARD.

Section 205(i) of the Social Security Act (42 U.S.C. 405(i) is amended in paragraph (B) by inserting "or divorced wife or divorced husband" after the word "husband".

SEC. 309. ELIMINATE OBSOLETE PROVISIONS.

(a) Section 226 of the Social Security Act (42 U.S.C. 426) is amended--

(1) by striking subsection (i); and
(2) by redesignating subsection (j) as
subsection (i).

(b) Section 226A of such Act (42 U.S.C. 426-1) is amended
by striking the second subsection (c).

Provisions of the Social Security Miscellaneous Amendments of 2009

Stepchild's Benefit Termination Month

Section 101 would terminate stepchild's benefits the month before the month in which the divorce between the stepchild's parent and the number holder becomes final. This provision would make the termination of the stepchild's benefits consistent with the termination month for the parent (i.e., the former spouse of the number holder). This change would provide equal treatment of the stepchild and his or her parent and is consistent with the termination month for other types of beneficiaries whose benefits cease due to marriage. Currently, when a stepchild's parent and the number holder divorce, the stepchild's benefits end with the month in which the divorce becomes final. However, the parent's benefits end with the month before the month in which the divorce becomes final. (The current difference in the termination months is the result of an apparent drafting oversight in a law enacted in 1996 to tighten the eligibility requirements for stepchildren.) The change would simplify the administration of the provision and consequently reduce the frequency of overpayments and underpayments.

The provision would be effective with respect to divorces that become final after the sixth month that begins after the month of enactment.

Date of Suspension of Benefits to Persons Removed from the United States

Section 102 would provide for suspension of Social Security benefit payments to persons removed from the United States *beginning with the month after the month in which the order of removal becomes final*. Under present law, we suspend payments *beginning with the month after the month that we receive notification* from the Attorney General or the Department of Homeland Security (DHS) that the person has been removed (or, in some limited cases, an order of removal has become final). The proposal would suspend benefits effective with the month after the month that the order of removal becomes final, rather than when we receive notification. We recognize that some overpayments would accrue as a result of retroactive suspension under the proposal. However, there is no program reason to continue benefits to non-citizens once an order of removal by an immigration judge has become final.

This provision would be effective with respect to orders of removal that become final after the month of enactment.

Suspend Benefits for Auxiliary and Dependent Beneficiaries Removed from the United States

Section 103 would amend section 202(n)(1)(A) of the Social Security Act to prohibit the payment of auxiliary and survivor's benefits to persons who have been removed from the United States under applicable provisions of the Immigration and Nationality Act. Currently, section 202(n)(1)(A) applies only to workers. This change would provide equitable treatment because Social Security benefits would be suspended regardless of whether the beneficiaries were entitled to worker's benefits or auxiliary/survivor benefits.

The provision would be effective with respect to payments to auxiliary/survivor beneficiaries whose removal is reported to us by the Attorney General or the Secretary of Homeland Security beginning 12 months after the date of enactment.

Eliminate Quinquennial Military Service Determinations for OASDI

Section 104 would eliminate quinquennial determinations for pre-1957 military service wage credits after the 2005 determination for the Social Security trust funds (OASI and DI). In accordance with Section 217(g) of the Social Security Act, the agency makes these determinations every five years in order to adjust prior determinations related to the costs attributable to granting gratuitous pre-1957 military service wage credits. There would be no change in these determinations for the Federal Hospital Insurance (HI) Trust Fund.

In 2005, the beneficiaries receiving higher benefits due to pre-1957 wage credits became a closed group, whose additional benefit attributable to pre-1957 military service wage credits should be relatively easy to estimate accurately. When the 2005 determination was completed, the estimated value of all future determinations for the OASDI trust funds was zero, but current law requires us to continue to absorb the cost of collecting and processing data on the affected beneficiaries and doing quinquennial adjustments as long as these beneficiaries survive. The trust funds have now been reimbursed for all costs attributable to granting the wage credits, *except* for the costs of actually making the quinquennial adjustments. The provision would save the expense of future determinations and data processing.

The Department of Health and Human Services (HHS) would continue to make this determination every five years for the HI trust fund. Future HI outlays on behalf of these beneficiaries are inherently more uncertain than the

corresponding OASDI obligation. Therefore, future quinquennial HI adjustments may not be as insignificant as those for OASDI. HHS would make future determinations based on information the Secretary determined to be appropriate (which could include information we already provided concerning this closed-group population) and would cease making future adjustments at such time as the Secretary deems appropriate.

This provision would be effective upon enactment.

Eliminate Supplemental Security Income Dedicated Accounts

Section 201 would eliminate the requirement that a child beneficiary's representative payee deposit past-due SSI benefits exceeding six times the maximum monthly benefit into a special account. The dedicated account restrictions are generally confusing to payees, and the required documentation of expenditures is labor intensive. Additionally, there is no evidence to show that the majority of representative payees of children (most of whom are their parents) do not act in the beneficiary's best interest.

The provision would be effective upon enactment.

Referral to State Vocational Rehabilitation (VR) Agencies and Department of Labor One Stop Centers for Denied Disability Claimants

Section 301 would authorize us to refer claimants who were denied disability benefits to State VR agencies and Department of Labor One-Stop Career Centers for services. Prior to the Ticket to Work and Work Incentives Improvement Act of 1999 (Ticket Act), section 222(a) of the Social Security Act authorized us to refer applicants for disability benefits under Title II of the Act to State VR agencies, whether or not we found the claimants disabled. However, the Ticket Act repealed that section. Although eliminating the VR-referral authority ensured that private-sector providers would not be unfairly disadvantaged under the Ticket to Work program by a referral of new beneficiaries to State VR agencies, it also had the unintended consequence of eliminating the referral of persons whose claims are denied and who, therefore, would not be served under the Ticket to Work program. For such persons, appropriate VR services may

- (1) enable them to enter and remain in the workforce when they otherwise might not; (2) have a salutary effect on their health; and, (3) reduce the incidence of subsequent applications for disability benefits. Some denied claimants who are ineligible for VR services might still benefit from services provided by One-Stop Career Centers funded by the Department of Labor under the *Workforce*

Investment Act of 1998. The proposal would apply to those applicants whose claims for benefits based on disability or blindness under Title II or Title XVI of the Social Security Act are denied.

The provision would be effective for applications for benefits filed in months following the sixth month after enactment.

Authority to Reimburse State Vocational Rehabilitation Agencies for the Cost of Services They Provide to Certain Beneficiaries

Section 302 would clarify that we have the authority to reimburse State VR agencies for the cost of services they provide to SSI blind or disabled beneficiaries between the ages of 16 and 64.

This section would also rescind one of the categories under which we will reimburse a State VR agency for the cost of services provided to beneficiaries. We will not reimburse a State VR agency if a beneficiary who has previously received services refuses, without good cause, to accept VR services or fails to cooperate so as to preclude his or her successful rehabilitation. Because the Ticket Act rescinded the agency's authority to require beneficiaries to accept VR services or otherwise cooperate with rehabilitation efforts, this category is obsolete.

The provision would be effective upon enactment.

Allow State Disability Determination Services Reconsiderations on Disability Cessations Made by the Commissioner

Section 303 would allow State disability hearing officers to conduct disability reconsideration hearings resulting from initial disability cessation determinations made by a Federal component. Under current law, when a Federal component makes a cessation determination and an appeal is filed, a Federal disability hearing officer must conduct the disability reconsideration hearing. Because there are very few Federal disability hearing officers available for conducting these reconsideration hearings, it is difficult for the Federal units to efficiently conduct all of the continuing disability reconsideration hearings and make the necessary cessation determinations. This provision would allow State disability hearing officers to conduct the required hearings using the same standards as Federal officers, thus reducing travel costs, enhancing efficiency, and providing improved customer service.

The provision would be effective upon enactment and shall apply to cases pending on or after such date.

Eliminate the Requirement for Parents with Custody of Their Children and Spouses Living with Beneficiaries to Provide Annual Accountings

Section 304 would eliminate the requirement for parents with custody of their children and spouses living with a beneficiary to provide annual accountings of how they spend the benefits of their children and spouses. The annual representative payee accounting process requires a high level of administrative effort. We are currently required to obtain an accounting on approximately 7 million beneficiaries each year, and almost one-half of these beneficiaries are minor children living with their parents. Parents with custody and spouses living with beneficiaries are considered preferred payees, and there is little evidence that these payees are prone to misusing benefits. Further, we have been criticized for intruding into family matters. We estimate that we spend over \$20 million per year to conduct annual accountings of these cases. Under the proposal, we would no longer have to send, track, and analyze annual accounting reports. However, the Commissioner would still have the authority to require accounting from any payee. In addition, we would develop a plan to detect changes in custody and living arrangements.

This section would be effective with respect to accounting for periods after September 30, 2009.

Prohibit Retroactive Title II and Title XVI Payments to Prisoners, Fugitive Felons, and Probation and Parole Violators

Section 305 would delay the payment of any past-due benefits due any person who is a prisoner, fugitive felon, or probation or parole violator. We would not pay these benefits until the person is no longer a prisoner, fugitive felon, or probation or parole violator. The current law prohibits prisoners from eligibility because inmates of public institutions do not need benefits for basic needs; those needs are provided for by the institution. We do not pay fugitive felons and probation and parole violators because public benefits should not be used to fund a flight from law enforcement agencies. Both of these rationales for denying current month's eligibility for benefits apply equally to the payment of past-due benefits while the person is a prisoner, fugitive felon, or probation or parole violator.

Delaying the payment of past-due benefits until a person is released from prison could help him or her retain available funds in order to obtain food, clothing, and shelter outside the institution. In cases in which claimants have to file new SSI applications because they had been ineligible for SSI for more than 12 months, we would pay the past-due benefits while the claimant was awaiting a determination on the new application.

The provision would be effective with respect to payments that would otherwise be made on or after the date of enactment.

Allow Agreements to Identify Fugitive Felons and Probation and Parole Violators Similar to Prisoner Computer Matching Agreements

Section 306 would exclude our fugitive felon matching agreements from those subject to the Computer Matching and Privacy Protection Act (CMPPA) amendments to the Privacy Act. This change would conform to legislation already enacted to exempt prisoner matching agreements from CMPPA.

The fugitive felon non-payment provisions of the Social Security Act are designed to prevent benefit payments to parole or probation violators and to those persons fleeing to avoid prosecution. In order to identify these persons, we enter into computer matching agreements with law enforcement entities across the United States to gain access to information regarding outstanding felony warrants. However, the CMPPA currently requires these agreements to be periodically renegotiated. As a part of the *Ticket to Work and Work Incentives Improvement Act of 1999*, Congress provided a CMPPA exemption for the prisoner program, and this proposal would provide a corresponding exemption for the fugitive felon data matching program.

The provision would be effective upon enactment.

Clarify Penalties Related to Misleading Internet Advertising

Section 307 would amend section 1140 of the Act to provide explicitly that the prohibitions and penalties contained in section 1140 of the Act apply to companies that operate solely on the Internet. This provision would prohibit misleading solicitations or advertising on the Internet and would provide penalties in instances where companies ignore the prohibitions.

Currently, section 1140 prohibits the use of certain words and symbols in a manner that misleadingly conveys the impression that SSA has an official

connection to or has approved the communication, and provides penalties for those who violate these prohibitions. While the section includes a list of media to which it applies (including "other communications"), it does not specify that the section applies to misleading solicitations and other communications distributed or disseminated over the Internet. Under current law, a company named "Social Security Information" clearly is prohibited from soliciting business through the mail or in newspapers because the name may mislead persons to believe the entity is associated with or endorsed by us. However, it is less clear that section 1140 prohibits the same company from operating solely on the Internet using a website such as "www.social-security-information.com" and subjects the entity to section 1140's prohibition and penalties.

This proposal would prohibit the misleading use of certain words and symbols whether in print, over the airwaves, or on the Internet.

The provision would be effective upon enactment.

Provide SSA with Authority to Certify the Amount of Benefits Payable to a Divorced Spouse of a Railroad Worker to the Railroad Retirement Board

Section 308 would amend section 205(i) of the Social Security Act to add the category of divorced wives and divorced husbands of railroad workers to the list of people for whom we would certify the amount of Social Security benefits to the Railroad Board (RRB) for payment, rather than to the Department of Treasury. The comparable provisions of the Railroad Retirement Act already include divorced spouses on the list of people for whom we would certify payment to RRB. This change would improve administration because the current cumbersome manual process in which we notify RRB of the divorced spouse's benefit would be replaced by the automated certification to RRB, resulting in less chance for error.

The provision would be effective upon date of enactment.

Eliminate Obsolete Provisions

Section 309 would eliminate subsections 226(i) and the second 226A(c) from the Act. These subsections protected Medicare benefits for persons who lost their disability benefits due to their failure to comply with subsection 225(c), which mandated substance treatment for persons receiving disability benefits based on a drug addiction or alcoholism impairment (DA&A). All three of these subsections were added to the Act under the *Social Security Independence and*

Program Improvements Act of 1994 (P.L. 103-296). (Since there was already a subsection 226A(c) in the Act at that time, the second subsection 226A(c) should have been named 226A(d)). The *Contract with America Advancement Act of 1996* (P.L. 104-121) revised the definition of disability to provide that DA&A cannot be a material contributing factor in a finding of disability. Consistent with the redefinition, the legislation deleted subsection 225(c). However, it did not delete subsections 226(i) and the second 226A(c).

The provision would be effective upon enactment.