

***In the Senate of the United States,***

*December 9, 2003.*

*Resolved*, That the bill from the House of Representatives (H.R. 743) entitled “An Act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

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

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

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

*Sec. 1. Short title and table of contents.*

**TITLE I—PROTECTION OF BENEFICIARIES**

*Subtitle A—Representative Payees*

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

*Sec. 102. Oversight of representative payees.*

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

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

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

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

*Sec. 107. Survey of use of payments by representative payees.*

*Subtitle B—Enforcement*

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

**TITLE II—PROGRAM PROTECTIONS**

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

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

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

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

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

*Sec. 206. Criminal penalty for corrupt or forcible interference with administration of Social Security Act.*

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

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

*Sec. 209. Authority for judicial orders of restitution.*

*Sec. 210. Authority for cross-program recovery of benefit overpayments.*

*Sec. 211. Prohibition on payment of title II benefits to persons not authorized to work in the United States.*

**TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS**

*Sec. 301. Cap on attorney assessments.*

*Sec. 302. Temporary extension of attorney fee payment system to title XVI claims.*

*Sec. 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives.*

*Sec. 304. GAO study regarding the fee payment process for claimant representatives.*

#### **TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

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

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

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

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

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

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

*Sec. 406. GAO study regarding the Ticket to Work and Self-Sufficiency Program.*

*Sec. 407. Reauthorization of appropriations for certain work incentives programs.*

##### *Subtitle B—Miscellaneous Amendments*

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

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

*Sec. 413. Reinstatement of certain reporting requirements.*

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

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

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

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

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

*Sec. 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision.*

*Sec. 420. Post-1956 Military Wage Credits.*

*Sec. 420A. Elimination of disincentive to return-to-work for childhood disability beneficiaries.*

##### *Subtitle C—Technical Amendments*

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

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

*Sec. 423. Technical corrections relating to domestic employment.*

*Sec. 424. Technical corrections of outdated references.*

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

*Sec. 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001.*

*Subtitle D—Amendments Related to Title XVI*

*Sec. 430. Exclusion from income for certain infrequent or irregular income and certain interest or dividend income.*

*Sec. 431. Uniform 9-month resource exclusion periods.*

*Sec. 432. Elimination of certain restrictions on the application of the student earned income exclusion.*

*Sec. 433. Exception to retrospective monthly accounting for nonrecurring income.*

*Sec. 434. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.*

*Sec. 435. Treatment of education-related income and resources.*

*Sec. 436. Monthly treatment of uniformed service compensation.*

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

3           **Subtitle A—Representative Payees**

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

6           (a) *TITLE II AMENDMENTS.—*

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

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

15                                   *“(B) is an individual who, for any month dur-*  
 16                   *ing a period when misuse occurs, serves 15 or more*  
 17                   *individuals who are beneficiaries under this title, title*  
 18                   *VIII, title XVI, or any combination of such titles;*

1 *misuses all or part of an individual's benefit paid to such*  
2 *representative payee, the Commissioner of Social Security*  
3 *shall certify for payment to the beneficiary or the bene-*  
4 *ficiary's alternative representative payee an amount equal*  
5 *to the amount of such benefit so misused. The provisions*  
6 *of this paragraph are subject to the limitations of para-*  
7 *graph (7)(B).”.*

8           (2) *MISUSE OF BENEFITS DEFINED.*—Section  
9           205(j) of such Act (42 U.S.C. 405(j)) is amended by  
10          adding at the end the following:

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

19          (b) *TITLE VIII AMENDMENTS.*—

20           (1) *REISSUANCE OF BENEFITS.*—Section 807(i)  
21 *of the Social Security Act (42 U.S.C. 1007(i)) is*  
22 *amended further by inserting after the first sentence*  
23 *the following: “In any case in which a representative*  
24 *payee that—*

25                   “(A) *is not an individual; or*

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

6           misuses all or part of an individual’s benefit paid to  
7           such representative payee, the Commissioner of Social  
8           Security shall pay to the beneficiary or the bene-  
9           ficiary’s alternative representative payee an amount  
10          equal to the amount of such benefit so misused. The  
11          provisions of this paragraph are subject to the limita-  
12          tions of subsection (l)(2).”.

13           (2) MISUSE OF BENEFITS DEFINED.—Section  
14          807 of such Act (42 U.S.C. 1007) is amended by add-  
15          ing at the end the following:

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

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

5           (c) *TITLE XVI AMENDMENTS.*—

6           (1) *REISSUANCE OF BENEFITS.*—Section  
7           1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E))  
8           is amended by inserting after the first sentence the  
9           following: “In any case in which a representative  
10          payee that—

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

14           “(ii) is an individual who, for any month dur-  
15          ing a period when misuse occurs, serves 15 or more  
16          individuals who are beneficiaries under this title, title  
17          II, title VIII, or any combination of such titles;

18          misuses all or part of an individual’s benefit paid to such  
19          representative payee, the Commissioner of Social Security  
20          shall pay to the beneficiary or the beneficiary’s alternative  
21          representative payee an amount equal to the amount of such  
22          benefit so misused. The provisions of this subparagraph are  
23          subject to the limitations of subparagraph (H)(ii).”.

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

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

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

8           (C) by inserting after paragraph (13) the  
9 following:

10           “(14) for the 9-month period beginning after the  
11 month in which received, any amount received by  
12 such individual (or spouse) or any other person whose  
13 income is deemed to be included in such individual’s  
14 (or spouse’s) income for purposes of this title as res-  
15 titution for benefits under this title, title II, or title  
16 VIII that a representative payee of such individual  
17 (or spouse) or such other person under section 205(j),  
18 807, or 1631(a)(2) has misused.”.

19           (3) *MISUSE OF BENEFITS DEFINED.*—Section  
20 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A))  
21 is amended by adding at the end the following:

22           “(iv) For purposes of this paragraph, misuse of bene-  
23 fits by a representative payee occurs in any case in which  
24 the representative payee receives payment under this title  
25 for the use and benefit of another person and converts such



1 *payment, or any part thereof, to a use other than for the*  
 2 *use and benefit of such other person. The Commissioner of*  
 3 *Social Security may prescribe by regulation the meaning*  
 4 *of the term ‘use and benefit’ for purposes of this clause.”.*

5 *(d) EFFECTIVE DATE.—The amendments made by this*  
 6 *section shall apply to any case of benefit misuse by a rep-*  
 7 *resentative payee with respect to which the Commissioner*  
 8 *of Social Security makes the determination of misuse on*  
 9 *or after January 1, 1995.*

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

11 *(a) CERTIFICATION OF BONDING AND LICENSING RE-*  
 12 *QUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL*  
 13 *REPRESENTATIVE PAYEES.—*

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

17 *(A) in paragraph (2)(C)(v), by striking “a*  
 18 *community-based nonprofit social service agency*  
 19 *licensed or bonded by the State” in subclause (I)*  
 20 *and inserting “a certified community-based non-*  
 21 *profit social service agency (as defined in para-*  
 22 *graph (9))”;*

23 *(B) in paragraph (3)(F), by striking “com-*  
 24 *munity-based nonprofit social service agencies”*  
 25 *and inserting “certified community-based non-*

1           *profit social service agencies (as defined in para-*  
2           *graph (9))”;*

3           (C) *in paragraph (4)(B), by striking “any*  
4           *community-based nonprofit social service agency*  
5           *which is bonded or licensed in each State in*  
6           *which it serves as a representative payee” and*  
7           *inserting “any certified community-based non-*  
8           *profit social service agency (as defined in para-*  
9           *graph (9))”;* and

10           (D) *by adding after paragraph (8) (as*  
11           *added by section 101(a)(2) of this Act) the fol-*  
12           *lowing:*

13           “(9) *For purposes of this subsection, the term ‘certified*  
14           *community-based nonprofit social service agency’ means a*  
15           *community-based nonprofit social service agency which is*  
16           *in compliance with requirements, under regulations which*  
17           *shall be prescribed by the Commissioner, for annual certifi-*  
18           *cation to the Commissioner that it is bonded in accordance*  
19           *with requirements specified by the Commissioner and that*  
20           *it is licensed in each State in which it serves as a represent-*  
21           *ative payee (if licensing is available in the State) in accord-*  
22           *ance with requirements specified by the Commissioner. Any*  
23           *such annual certification shall include a copy of any inde-*  
24           *pendent audit on the agency which may have been per-*  
25           *formed since the previous certification.”.*

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

4                   (A) *in subparagraph (B)(vii), by striking*  
5                   *“a community-based nonprofit social service*  
6                   *agency licensed or bonded by the State” in sub-*  
7                   *clause (I) and inserting “a certified community-*  
8                   *based nonprofit social service agency (as defined*  
9                   *in subparagraph (I))”;*

10                   (B) *in subparagraph (D)(ii)—*

11                           (i) *by striking “or any community-*  
12                           *based” and all that follows through “in ac-*  
13                           *cordance” in subclause (II) and inserting*  
14                           *“or any certified community-based non-*  
15                           *profit social service agency (as defined in*  
16                           *subparagraph (I)), if the agency, in accord-*  
17                           *ance”;*

18                           (ii) *by redesignating items (aa) and*  
19                           *(bb) as subclauses (I) and (II), respectively*  
20                           *(and adjusting the margins accordingly);*  
21                           *and*

22                           (iii) *by striking “subclause (II)(bb)”*  
23                           *and inserting “subclause (II)”;* *and*

24                   (C) *by adding at the end the following:*

1           “(I) For purposes of this paragraph, the term ‘certified  
2 community-based nonprofit social service agency’ means a  
3 community-based nonprofit social service agency which is  
4 in compliance with requirements, under regulations which  
5 shall be prescribed by the Commissioner, for annual certifi-  
6 cation to the Commissioner that it is bonded in accordance  
7 with requirements specified by the Commissioner and that  
8 it is licensed in each State in which it serves as a represent-  
9 ative payee (if licensing is available in the State) in accord-  
10 ance with requirements specified by the Commissioner. Any  
11 such annual certification shall include a copy of any inde-  
12 pendent audit on the agency which may have been per-  
13 formed since the previous certification.”.

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

18           (b) *PERIODIC ONSITE REVIEW.*—

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

22           “(6)(A) In addition to such other reviews of represent-  
23 ative payees as the Commissioner of Social Security may  
24 otherwise conduct, the Commissioner shall provide for the  
25 periodic onsite review of any person or agency located in

1 *the United States that receives the benefits payable under*  
2 *this title (alone or in combination with benefits payable*  
3 *under title VIII or title XVI) to another individual pursu-*  
4 *ant to the appointment of such person or agency as a rep-*  
5 *resentative payee under this subsection, section 807, or sec-*  
6 *tion 1631(a)(2) in any case in which—*

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

10           “(ii) *the representative payee is a certified com-*  
11           *munity-based nonprofit social service agency (as de-*  
12           *fined in paragraph (9) of this subsection or section*  
13           *1631(a)(2)(I)); or*

14           “(iii) *the representative payee is an agency*  
15           *(other than an agency described in clause (ii)) that*  
16           *serves in that capacity with respect to 50 or more*  
17           *such individuals.*

18           “(B) *Within 120 days after the end of each fiscal year,*  
19 *the Commissioner shall submit to the Committee on Ways*  
20 *and Means of the House of Representatives and the Com-*  
21 *mittee on Finance of the Senate a report on the results of*  
22 *periodic onsite reviews conducted during the fiscal year*  
23 *pursuant to subparagraph (A) and of any other reviews of*  
24 *representative payees conducted during such fiscal year in*  
25 *connection with benefits under this title. Each such report*

1 *shall describe in detail all problems identified in such re-*  
2 *views and any corrective action taken or planned to be*  
3 *taken to correct such problems, and shall include—*

4           “(i) *the number of such reviews;*

5           “(ii) *the results of such reviews;*

6           “(iii) *the number of cases in which the represent-*  
7 *ative payee was changed and why;*

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

13           “(v) *the number of cases discovered in which*  
14 *there was a misuse of funds;*

15           “(vi) *how any such cases of misuse of funds were*  
16 *dealt with by the Commissioner;*

17           “(vii) *the final disposition of such cases of mis-*  
18 *use of funds, including any criminal penalties im-*  
19 *posed; and*

20           “(viii) *such other information as the Commis-*  
21 *sioner deems appropriate.”.*

22           (2) *TITLE VIII AMENDMENT.—Section 807 of*  
23 *such Act (as amended by section 101(b)(2) of this Act)*  
24 *is amended further by adding at the end the fol-*  
25 *lowing:*

1       “(k) *PERIODIC ONSITE REVIEW.*—

2               “(1) *IN GENERAL.*—*In addition to such other re-*  
3 *views of representative payees as the Commissioner of*  
4 *Social Security may otherwise conduct, the Commis-*  
5 *sioner may provide for the periodic onsite review of*  
6 *any person or agency that receives the benefits pay-*  
7 *able under this title (alone or in combination with*  
8 *benefits payable under title II or title XVI) to another*  
9 *individual pursuant to the appointment of such per-*  
10 *son or agency as a representative payee under this*  
11 *section, section 205(j), or section 1631(a)(2) in any*  
12 *case in which—*

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

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

19               “(2) *REPORT.*—*Within 120 days after the end of*  
20 *each fiscal year, the Commissioner shall submit to the*  
21 *Committee on Ways and Means of the House of Rep-*  
22 *resentatives and the Committee on Finance of the*  
23 *Senate a report on the results of periodic onsite re-*  
24 *views conducted during the fiscal year pursuant to*  
25 *paragraph (1) and of any other reviews of representa-*

1        *tive payees conducted during such fiscal year in con-*  
2        *nection with benefits under this title. Each such re-*  
3        *port shall describe in detail all problems identified in*  
4        *such reviews and any corrective action taken or*  
5        *planned to be taken to correct such problems, and*  
6        *shall include—*

7                *“(A) the number of such reviews;*

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

9                *“(C) the number of cases in which the rep-*  
10              *resentative payee was changed and why;*

11              *“(D) the number of cases involving the exer-*  
12              *cise of expedited, targeted oversight of the rep-*  
13              *resentative payee by the Commissioner conducted*  
14              *upon receipt of an allegation of misuse of funds,*  
15              *failure to pay a vendor, or a similar irregu-*  
16              *larity;*

17              *“(E) the number of cases discovered in*  
18              *which there was a misuse of funds;*

19              *“(F) how any such cases of misuse of funds*  
20              *were dealt with by the Commissioner;*

21              *“(G) the final disposition of such cases of*  
22              *misuse of funds, including any criminal pen-*  
23              *alties imposed; and*

24              *“(H) such other information as the Com-*  
25              *missioner deems appropriate.”.*



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

4           “(G)(i) *In addition to such other reviews of representa-*  
5     *tive payees as the Commissioner of Social Security may*  
6     *otherwise conduct, the Commissioner shall provide for the*  
7     *periodic onsite review of any person or agency that receives*  
8     *the benefits payable under this title (alone or in combina-*  
9     *tion with benefits payable under title II or title VIII) to*  
10    *another individual pursuant to the appointment of the per-*  
11    *son or agency as a representative payee under this para-*  
12    *graph, section 205(j), or section 807 in any case in which—*

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

16           “(II) *the representative payee is a certified com-*  
17    *munity-based nonprofit social service agency (as de-*  
18    *defined in subparagraph (I) of this paragraph or sec-*  
19    *tion 205(j)(9)); or*

20           “(III) *the representative payee is an agency*  
21    *(other than an agency described in subclause (II))*  
22    *that serves in that capacity with respect to 50 or*  
23    *more such individuals.*

24           “(ii) *Within 120 days after the end of each fiscal year,*  
25    *the Commissioner shall submit to the Committee on Ways*

1 *and Means of the House of Representatives and the Com-*  
2 *mittee on Finance of the Senate a report on the results of*  
3 *periodic onsite reviews conducted during the fiscal year*  
4 *pursuant to clause (i) and of any other reviews of represent-*  
5 *ative payees conducted during such fiscal year in connec-*  
6 *tion with benefits under this title. Each such report shall*  
7 *describe in detail all problems identified in the reviews and*  
8 *any corrective action taken or planned to be taken to correct*  
9 *the problems, and shall include—*

10           “(I) *the number of the reviews;*

11           “(II) *the results of such reviews;*

12           “(III) *the number of cases in which the rep-*  
13 *resentative payee was changed and why;*

14           “(IV) *the number of cases involving the exercise*  
15 *of expedited, targeted oversight of the representative*  
16 *payee by the Commissioner conducted upon receipt of*  
17 *an allegation of misuse of funds, failure to pay a ven-*  
18 *dor, or a similar irregularity;*

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

21           “(VI) *how any such cases of misuse of funds were*  
22 *dealt with by the Commissioner;*

23           “(VII) *the final disposition of such cases of mis-*  
24 *use of funds, including any criminal penalties im-*  
25 *posed; and*

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

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

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

11           (1) *in subparagraph (B)(i)*—

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

14           (B) *by redesignating subclause (IV) as sub-*  
15           *clause (VI); and*

16           (C) *by inserting after subclause (III) the*  
17           *following:*

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

22           “(V) *obtain information concerning whether such*  
23           *person is a person described in section*  
24           *202(x)(1)(A)(iv), and”;*

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

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

16           “(I) such person is described in section  
17           202(x)(1)(A)(iv),

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

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

23           (3) in subparagraph (C)(i)(II)—

24                   (A) by striking “subparagraph (B)(i)(IV),,”

25                   and inserting “subparagraph (B)(i)(VI)”; and

1                   (B)           by           striking           “section  
2           1631(a)(2)(B)(ii)(IV)” and inserting “section  
3           1631(a)(2)(B)(ii)(VI)”;  
4           (4) in subparagraph (C)(i)—  
5                   (A) by striking “or” at the end of subclause  
6           (II);  
7                   (B) by striking the period at the end of sub-  
8           clause (III) and inserting a comma; and  
9                   (C) by adding at the end the following:  
10           “(IV) such person has previously been convicted  
11           as described in subparagraph (B)(i)(IV), unless the  
12           Commissioner determines that such certification  
13           would be appropriate notwithstanding such convic-  
14           tion, or  
15                   “(V) such person is person described in section  
16           202(x)(1)(A)(iv).”  
17           (b) TITLE VIII AMENDMENTS.—Section 807 of such  
18           Act (42 U.S.C. 1007) is amended—  
19                   (1) in subsection (b)(2)—  
20                           (A) by striking “and” at the end of sub-  
21                           paragraph (C);  
22                           (B) by redesignating subparagraph (D) as  
23                           subparagraph (F); and  
24                           (C) by inserting after subparagraph (C) the  
25                           following:

1           “(D) obtain information concerning whether  
2           such person has been convicted of any other of-  
3           fense under Federal or State law which resulted  
4           in imprisonment for more than 1 year;

5           “(E) obtain information concerning whether  
6           such person is a person described in section  
7           804(a)(2); and”;

8           (2) in subsection (b), by adding at the end the  
9           following:

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

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

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

6           “(C) the location or apprehension of such  
7           person is within the officer’s official duties.”;  
8           and  
9           (3) in subsection (d)(1)—

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

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

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

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

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

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

24           (1) in clause (ii)—

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

3           (B) by redesignating subclause (IV) as sub-  
4           clause (VI); and

5           (C) by inserting after subclause (III) the  
6           following:

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

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

14          (2) in clause (iii)(II)—

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

17               (B) by striking “section  
18               205(j)(2)(B)(i)(IV)” and inserting “section  
19               205(j)(2)(B)(i)(VI)”;

20          (3) in clause (iii)—

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

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

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



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

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

8           (4) by adding at the end the following:

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

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

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

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

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

9           (e) *REPORT TO CONGRESS.*—The Commissioner of So-  
10          cial Security, in consultation with the Inspector General  
11          of the Social Security Administration, shall prepare a re-  
12          port evaluating whether the existing procedures and reviews  
13          for the qualification (including disqualification) of rep-  
14          resentative payees are sufficient to enable the Commissioner  
15          to protect benefits from being misused by representative  
16          payees. The Commissioner shall submit the report to the  
17          Committee on Ways and Means of the House of Representa-  
18          tives and the Committee on Finance of the Senate no later  
19          than 270 days after the date of the enactment of this Act.  
20          The Commissioner shall include in such report any rec-  
21          ommendations that the Commissioner considers appro-  
22          priate.

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

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

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

9 (2) in the second sentence, by striking “The Sec-  
10 retary” and inserting the following: “A qualified or-  
11 ganization may not collect a fee from an individual  
12 for any month with respect to which the Commis-  
13 sioner of Social Security or a court of competent ju-  
14 risdiction has determined that the organization mis-  
15 used all or part of the individual’s benefit, and any  
16 amount so collected by the qualified organization for  
17 such month shall be treated as a misused part of the  
18 individual’s benefit for purposes of paragraphs (5)  
19 and (6). The Commissioner”.

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

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

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

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

18           **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MIS-**

19   **USED BENEFITS.**

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

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

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

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

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

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

23          “(B) The total of the amount certified for payment to  
24          such individual or such individual’s alternative representa-  
25          tive payee under subparagraph (A) and the amount cer-

1 *tified for payment under paragraph (5) may not exceed the*  
2 *total benefit amount misused by the representative payee*  
3 *with respect to such individual.”.*

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

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

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

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

7           *(c) TITLE XVI AMENDMENTS.*—*Section 1631(a)(2) of*  
8           *such Act (42 U.S.C. 1383(a)(2)) (as amended by section*  
9           *102(b)(3)) is amended further—*

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

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

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

1 upon recovering all or any part of the amount, the Commis-  
 2 sioner shall make payment of an amount equal to the recov-  
 3 ered amount to such individual or such individual's alter-  
 4 native representative payee.

5 “(ii) The total of the amount paid to such individual  
 6 or such individual's alternative representative payee under  
 7 clause (i) and the amount paid under subparagraph (E)  
 8 may not exceed the total benefit amount misused by the rep-  
 9 resentative payee with respect to such individual.”.

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

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

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

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

24 (2) by inserting after subparagraph (D) the fol-  
 25 lowing:



1       “(E) *In any case in which the person described in sub-*  
2 *paragraph (A) or (D) receiving payments on behalf of an-*  
3 *other fails to submit a report required by the Commissioner*  
4 *of Social Security under subparagraph (A) or (D), the*  
5 *Commissioner may, after furnishing notice to such person*  
6 *and the individual entitled to such payment, require that*  
7 *such person appear in person at a field office of the Social*  
8 *Security Administration serving the area in which the indi-*  
9 *vidual resides in order to receive such payments.”.*

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

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

14               (2) *by inserting after paragraph (2) the fol-*  
15 *lowing:*

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

1       *States Government facility designated by the Social*  
2       *Security Administration as serving the area in which*  
3       *the qualified individual resides in order to receive*  
4       *such benefit payments.”.*

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

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

17       (d) *EFFECTIVE DATE.—The amendments made by this*  
18       *section shall take effect 180 days after the date of the enact-*  
19       *ment of this Act.*

20       **SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTA-**  
21                               **TIVE PAYEES.**

22       (a) *IN GENERAL.—Section 1110 of the Social Security*  
23       *Act (42 U.S.C. 1310) is amended by adding at the end the*  
24       *following:*

1       “(c)(1) *In addition to the amount otherwise appro-*  
 2 *priated in any other law to carry out subsection (a) for*  
 3 *fiscal year 2004, up to \$8,500,000 is authorized and appro-*  
 4 *priated and shall be used by the Commissioner of Social*  
 5 *Security under this subsection for purposes of conducting*  
 6 *a statistically valid survey to determine how payments*  
 7 *made to individuals, organizations, and State or local gov-*  
 8 *ernment agencies that are representative payees for benefits*  
 9 *paid under title II or XVI are being managed and used*  
 10 *on behalf of the beneficiaries for whom such benefits are*  
 11 *paid.*

12       “(2) *Not later than 18 months after the date of enact-*  
 13 *ment of this subsection, the Commissioner of Social Secu-*  
 14 *rity shall submit a report on the survey conducted in ac-*  
 15 *cordance with paragraph (1) to the Committee on Ways*  
 16 *and Means of the House of Representatives and the Com-*  
 17 *mittee on Finance of the Senate.”.*

## 18                   **Subtitle B—Enforcement**

### 19 **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-** 20 **SPECT TO WRONGFUL CONVERSIONS BY REP-** 21 **RESENTATIVE PAYEES.**

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

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

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

## 18                               **TITLE II—PROGRAM**

### 19   **PROTECTIONS**

20       **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**  
 21                               **SPECT TO WITHHOLDING OF MATERIAL**  
 22   **FACTS.**

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

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

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

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

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

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

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

1       *false or misleading or that the withholding of such*  
 2       *disclosure is misleading,*  
 3 *shall be subject to,”;*

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

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

12               *(E) by inserting “or such a withholding of*  
 13       *disclosure” after “such a statement or represen-*  
 14       *tation” in the second sentence.*

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

18               *(A) by striking “who” the first place it ap-*  
 19       *pears and inserting “who—”; and*

20               *(B) by striking “makes” and all that follows*  
 21       *through “shall be subject to,” and inserting the*  
 22       *following:*

23               *“(1) makes, or causes to be made, a statement or*  
 24       *representation of a material fact, for use in deter-*  
 25       *mining any initial or continuing right to or the*

1       *amount of monthly insurance benefits under title II*  
2       *or benefits or payments under title XVI that the per-*  
3       *son knows or should know is false or misleading,*

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

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

16 *shall be subject to,”.*

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

23       **(c) CONFORMING AMENDMENTS.**—

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

4           (2) Section 1129(c)(1) of such Act (42  
5 U.S.C. 1320a–8(c)(1)) is amended by striking “and  
6 representations” and inserting “, representations, or  
7 actions”.

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

12          (d) *EFFECTIVE DATE.*—The amendments made by this  
13 section shall apply with respect to violations committed  
14 after the date on which the Commissioner of Social Security  
15 implements the centralized computer file described in sec-  
16 tion 202.

17 **SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECU-**  
18 **RITY OF RECEIPTS TO ACKNOWLEDGE SUB-**  
19 **MISSION OF REPORTS OF CHANGES IN WORK**  
20 **OR EARNINGS STATUS OF DISABLED BENE-**  
21 **FICIARIES.**

22          *Effective as soon as possible, but not later than 1 year*  
23 *after the date of the enactment of this Act, until such time*  
24 *as the Commissioner of Social Security implements a cen-*  
25 *tralized computer file recording the date of the submission*



1 of information by a disabled beneficiary (or representative)  
2 regarding a change in the beneficiary's work or earnings  
3 status, the Commissioner shall issue a receipt to the disabled  
4 beneficiary (or representative) each time he or she submits  
5 documentation, or otherwise reports to the Commissioner,  
6 on a change in such status.

7 **SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEE-**  
8 **ING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBA-**  
9 **MENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.**  
10

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

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

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

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

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

23 “(iv) is fleeing to avoid prosecution, or custody  
24 or confinement after conviction, under the laws of the  
25 place from which the person flees, for a crime, or an

1       *attempt to commit a crime, which is a felony under*  
2       *the laws of the place from which the person flees, or,*  
3       *in jurisdictions that do not define crimes as felonies,*  
4       *is punishable by death or imprisonment for a term*  
5       *exceeding 1 year regardless of the actual sentence im-*  
6       *posed, or*

7               *“(v) is violating a condition of probation or pa-*  
8       *role imposed under Federal or State law.”;*

9               *(5) by adding at the end of paragraph (1)(B) the*  
10       *following:*

11       *“(iii) Notwithstanding subparagraph (A), the Com-*  
12       *missioner shall, for good cause shown, pay the individual*  
13       *benefits that have been withheld or would otherwise be with-*  
14       *held pursuant to clause (iv) or (v) of subparagraph (A) if*  
15       *the Commissioner determines that—*

16               *“(I) a court of competent jurisdiction has found*  
17       *the individual not guilty of the criminal offense, dis-*  
18       *missed the charges relating to the criminal offense,*  
19       *vacated the warrant for arrest of the individual for*  
20       *the criminal offense, or issued any similar exon-*  
21       *erating order (or taken similar exonerating action),*  
22       *or*

23               *“(II) the individual was erroneously implicated*  
24       *in connection with the criminal offense by reason of*  
25       *identity fraud.*

1       “(iv) Notwithstanding subparagraph (A), the Commis-  
2 sioner may, for good cause shown based on mitigating cir-  
3 cumstances, pay the individual benefits that have been  
4 withheld or would otherwise be withheld pursuant to clause  
5 (iv) or (v) of subparagraph (A) if the Commissioner deter-  
6 mines that—

7               “(I) the offense described in clause (iv) or under-  
8 lying the imposition of the probation or parole de-  
9 scribed in clause (v) was nonviolent and not drug-re-  
10 lated, and

11               “(II) in the case of an individual from whom  
12 benefits have been withheld or otherwise would be  
13 withheld pursuant to subparagraph (A)(v), the action  
14 that resulted in the violation of a condition of proba-  
15 tion or parole was nonviolent and not drug-related.”;  
16 and

17               (6) in paragraph (3), by adding at the end the  
18 following:

19               “(C) Notwithstanding the provisions of section 552a  
20 of title 5, United States Code, or any other provision of  
21 Federal or State law (other than section 6103 of the Inter-  
22 nal Revenue Code of 1986 and section 1106(c) of this Act),  
23 the Commissioner shall furnish any Federal, State, or local  
24 law enforcement officer, upon the written request of the offi-  
25 cer, with the current address, Social Security number, and

1 *photograph (if applicable) of any beneficiary under this*  
2 *title, if the officer furnishes the Commissioner with the*  
3 *name of the beneficiary, and other identifying information*  
4 *as reasonably required by the Commissioner to establish the*  
5 *unique identity of the beneficiary, and notifies the Commis-*  
6 *sioner that—*

7           “(i) *the beneficiary is described in clause (iv) or*  
8           *(v) of paragraph (1)(A); and*

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

11          **(b) CONFORMING AMENDMENTS TO TITLE XVI.—Sec-**  
12 *tion 1611(e) of the Social Security Act (42 U.S.C. 1382(e))*  
13 *is amended—*

14           **(1) in paragraph (4)—**

15           **(A) by redesignating subparagraphs (A)**  
16 *and (B) as clauses (i) and (ii), respectively;*

17           **(B) by inserting “(A)” after “(4)”;**

18           **(C) in clause (i) of subparagraph (A) (as**  
19 *redesignated by subparagraph (A)), by striking*  
20 *“or which, in the case of the State of*  
21 *New Jersey, is a high misdemeanor under the*  
22 *laws of such State” and inserting “or, in juris-*  
23 *dictions that do not define crimes as felonies, is*  
24 *punishable by death or imprisonment for a term*

1           *exceeding 1 year regardless of the actual sentence*  
2           *imposed”*; and

3           *(D) by adding at the end the following:*

4           *“(B) Notwithstanding subparagraph (A), the Commis-*  
5           *sioner shall, for good cause shown, treat the person referred*  
6           *to in subparagraph (A) as an eligible individual or eligible*  
7           *spouse if the Commissioner determines that—*

8           *“(i) a court of competent jurisdiction has found*  
9           *the person not guilty of the criminal offense, dis-*  
10           *missed the charges relating to the criminal offense,*  
11           *vacated the warrant for arrest of the person for the*  
12           *criminal offense, or issued any similar exonerating*  
13           *order (or taken similar exonerating action), or*

14           *“(ii) the person was erroneously implicated in*  
15           *connection with the criminal offense by reason of*  
16           *identity fraud.*

17           *“(C) Notwithstanding subparagraph (A), the Commis-*  
18           *sioner may, for good cause shown based on mitigating cir-*  
19           *cumstances, treat the person referred to in subparagraph*  
20           *(A) as an eligible individual or eligible spouse if the Com-*  
21           *missioner determines that—*

22           *“(i) the offense described in subparagraph (A)(i)*  
23           *or underlying the imposition of the probation or pa-*  
24           *role described in subparagraph (A)(ii) was nonviolent*  
25           *and not drug-related, and*

1           “(ii) in the case of a person who is not consid-  
2           ered an eligible individual or eligible spouse pursuant  
3           to subparagraph (A)(ii), the action that resulted in  
4           the violation of a condition of probation or parole  
5           was nonviolent and not drug-related.”; and

6           (2) in paragraph (5), by striking subparagraphs  
7           (A) and (B) and inserting the following:

8           “(A) the recipient is described in clause (i) or  
9           (ii) of paragraph (4)(A); and

10           “(B) the location or apprehension of the recipi-  
11           ent is within the officer’s official duties.”.

12           (c) *CONFORMING AMENDMENT.*—Section 804(a)(2) of  
13           the Social Security Act (42 U.S.C. 1004(a)(2)) is amended  
14           by striking “or which, in the case of the State of New Jersey,  
15           is a high misdemeanor under the laws of such State” and  
16           inserting “or, in jurisdictions that do not define crimes as  
17           felonies, is punishable by death or imprisonment for a term  
18           exceeding 1 year regardless of the actual sentence imposed”.

19           (d) *EFFECTIVE DATE.*—The amendments made by this  
20           section shall take effect on the first day of the first month  
21           that begins on or after the date that is 9 months after the  
22           date of enactment of this Act.

1 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**  
2 **VIDE FOR A FEE, A PRODUCT OR SERVICE**  
3 **AVAILABLE WITHOUT CHARGE FROM THE SO-**  
4 **CIAL SECURITY ADMINISTRATION.**

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

7 (1) in subsection (a), by adding at the end the  
8 following:

9 “(4)(A) No person shall offer, for a fee, to assist an  
10 individual to obtain a product or service that the person  
11 knows or should know is provided free of charge by the So-  
12 cial Security Administration unless, at the time the offer  
13 is made, the person provides to the individual to whom the  
14 offer is tendered a notice that—

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

18 “(ii) complies with standards prescribed by the  
19 Commissioner of Social Security respecting the con-  
20 tent of such notice and its placement, visibility, and  
21 legibility.

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

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

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

4           (2) in the heading, by striking “PROHIBITION OF  
5           MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-  
6           ERENCE” and inserting “PROHIBITIONS RELATING TO  
7           REFERENCES”.

8           (b) *EFFECTIVE DATE*.—The amendments made by this  
9           section shall apply to offers of assistance made after the  
10           sixth month ending after the Commissioner of Social Secu-  
11           rity promulgates final regulations prescribing the stand-  
12           ards applicable to the notice required to be provided in con-  
13           nection with such offer. The Commissioner shall promul-  
14           gate such final regulations within 1 year after the date of  
15           the enactment of this Act.

16       **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**  
17                               **AS CLAIMANT REPRESENTATIVES.**

18           Section 206(a)(1) of the Social Security Act (42  
19           U.S.C. 406(a)(1)) is amended by inserting after the second  
20           sentence the following: “Notwithstanding the preceding sen-  
21           tences, the Commissioner, after due notice and opportunity  
22           for hearing, (A) may refuse to recognize as a representative,  
23           and may disqualify a representative already recognized,  
24           any attorney who has been disbarred or suspended from any  
25           court or bar to which he or she was previously admitted



1 *to practice or who has been disqualified from participating*  
 2 *in or appearing before any Federal program or agency, and*  
 3 *(B) may refuse to recognize, and may disqualify, as a non-*  
 4 *attorney representative any attorney who has been dis-*  
 5 *barred or suspended from any court or bar to which he or*  
 6 *she was previously admitted to practice. A representative*  
 7 *who has been disqualified or suspended pursuant to this sec-*  
 8 *tion from appearing before the Social Security Administra-*  
 9 *tion as a result of collecting or receiving a fee in excess*  
 10 *of the amount authorized shall be barred from appearing*  
 11 *before the Social Security Administration as a representa-*  
 12 *tive until full restitution is made to the claimant and,*  
 13 *thereafter, may be considered for reinstatement only under*  
 14 *such rules as the Commissioner may prescribe.”.*

15 **SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE**  
 16 **INTERFERENCE WITH ADMINISTRATION OF**  
 17 **SOCIAL SECURITY ACT.**

18 *Part A of title XI of the Social Security Act (42*  
 19 *U.S.C. 1301 et seq.) is amended by inserting after section*  
 20 *1129A the following:*

21 *“ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF*  
 22 *SOCIAL SECURITY ACT*

23 *“SEC. 1129B. Whoever corruptly or by force or threats*  
 24 *of force (including any threatening letter or communica-*  
 25 *tion) attempts to intimidate or impede any officer, em-*  
 26 *ployee, or contractor of the Social Security Administration*

1 *(including any State employee of a disability determina-*  
 2 *tion service or any other individual designated by the Com-*  
 3 *missioner of Social Security) acting in an official capacity*  
 4 *to carry out a duty under this Act, or in any other way*  
 5 *corruptly or by force or threats of force (including any*  
 6 *threatening letter or communication) obstructs or impedes,*  
 7 *or attempts to obstruct or impede, the due administration*  
 8 *of this Act, shall be fined not more than \$5,000, imprisoned*  
 9 *not more than 3 years, or both, except that if the offense*  
 10 *is committed only by threats of force, the person shall be*  
 11 *fined not more than \$3,000, imprisoned not more than 1*  
 12 *year, or both. In this subsection, the term ‘threats of force’*  
 13 *means threats of harm to the officer or employee of the*  
 14 *United States or to a contractor of the Social Security Ad-*  
 15 *ministration, or to a member of the family of such an officer*  
 16 *or employee or contractor.’’.*

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

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

21 *(1) in subparagraph (A), by inserting “‘Centers*  
 22 *for Medicare & Medicaid Services’,” after “‘Health*  
 23 *Care Financing Administration’,”, by striking “or*  
 24 *‘Medicaid’,” and inserting “‘Medicaid’, ‘Death Bene-*  
 25 *fits Update’, ‘Federal Benefit Information’, ‘Funeral*

1 *Expenses’, or ‘Final Supplemental Plan’,” and by in-*  
 2 *serting “‘CMS’,” after “‘HCFA’,”;*

3 (2) *in subparagraph (B), by inserting “Centers*  
 4 *for Medicare & Medicaid Services,” after “Health*  
 5 *Care Financing Administration,” each place it ap-*  
 6 *pears; and*

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

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

14 **SEC. 208. DISQUALIFICATION FROM PAYMENT DURING**  
 15 **TRIAL WORK PERIOD UPON CONVICTION OF**  
 16 **FRAUDULENT CONCEALMENT OF WORK AC-**  
 17 **TIVITY.**

18 (a) *IN GENERAL.*—*Section 222(c) of the Social Secu-*  
 19 *rity Act (42 U.S.C. 422(c)) is amended by adding at the*  
 20 *end the following:*

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

1           “(A) providing false information to the Commis-  
2           sioner of Social Security as to whether the individual  
3           had earnings in or for a particular period, or as to  
4           the amount thereof;

5           “(B) receiving disability insurance benefits  
6           under this title while engaging in work activity under  
7           another identity, including under another social secu-  
8           rity account number or a number purporting to be a  
9           social security account number; or

10           “(C) taking other actions to conceal work activ-  
11           ity with an intent fraudulently to secure payment in  
12           a greater amount than is due or when no payment  
13           is authorized,

14           no benefit shall be payable to such individual under this  
15           title with respect to a period of disability for any month  
16           before such conviction during which the individual rendered  
17           services during the period of trial work with respect to  
18           which the fraudulently concealed work activity occurred,  
19           and amounts otherwise due under this title as restitution,  
20           penalties, assessments, fines, or other repayments shall in  
21           all cases be in addition to any amounts for which such indi-  
22           vidual is liable as overpayments by reason of such conceal-  
23           ment.”.

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

4 **SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITU-**  
5 **TION.**

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

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

10                (2) *by inserting after subsection (a) the fol-*  
11 *lowing:*

12                “(b)(1) *Any Federal court, when sentencing a defend-*  
13 *ant convicted of an offense under subsection (a), may order,*  
14 *in addition to or in lieu of any other penalty authorized*  
15 *by law, that the defendant make restitution to the victims*  
16 *of such offense specified in paragraph (4).*

17                “(2) *Sections 3612, 3663, and 3664 of title 18, United*  
18 *States Code, shall apply with respect to the issuance and*  
19 *enforcement of orders of restitution to victims of such offense*  
20 *under this subsection.*

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

24                “(4) *For purposes of paragraphs (1) and (2), the vic-*  
25 *tims of an offense under subsection (a) are the following:*

1           “(A) *Any individual who suffers a financial loss*  
2           *as a result of the defendant’s violation of subsection*  
3           *(a).*

4           “(B) *The Commissioner of Social Security, to the*  
5           *extent that the defendant’s violation of subsection (a)*  
6           *results in—*

7                   “(i) *the Commissioner of Social Security*  
8                   *making a benefit payment that should not have*  
9                   *been made; or*

10                   “(ii) *an individual suffering a financial*  
11                   *loss due to the defendant’s violation of subsection*  
12                   *(a) in his or her capacity as the individual’s*  
13                   *representative payee appointed pursuant to sec-*  
14                   *tion 205(j).*

15           “(5)(A) *Except as provided in subparagraph (B),*  
16           *funds paid to the Commissioner of Social Security as res-*  
17           *titution pursuant to a court order shall be deposited in the*  
18           *Federal Old-Age and Survivors Insurance Trust Fund, or*  
19           *the Federal Disability Insurance Trust Fund, as appro-*  
20           *priate.*

21           “(B) *In the case of funds paid to the Commissioner*  
22           *of Social Security pursuant to paragraph (4)(B)(ii), the*  
23           *Commissioner of Social Security shall certify for payment*  
24           *to the individual described in such paragraph an amount*  
25           *equal to the lesser of the amount of the funds so paid or*

1 *the individual's outstanding financial loss, except that such*  
 2 *amount may be reduced by the amount of any overpay-*  
 3 *ments of benefits owed under this title, title VIII, or title*  
 4 *XVI by the individual.”; and*

5 *(3) by amending subsection (c) (as redesignated*  
 6 *by paragraph (1)), by striking the second sentence.*

7 *(b) AMENDMENTS TO TITLE VIII.—Section 811 of the*  
 8 *Social Security Act (42 U.S.C. 1011) is amended—*

9 *(1) by striking subsection (b) and inserting the*  
 10 *following:*

11 *“(b) COURT ORDER FOR RESTITUTION.—*

12 *“(1) IN GENERAL.—Any Federal court, when*  
 13 *sentencing a defendant convicted of an offense under*  
 14 *subsection (a), may order, in addition to or in lieu*  
 15 *of any other penalty authorized by law, that the de-*  
 16 *fendant make restitution to the Commissioner of So-*  
 17 *cial Security, in any case in which such offense re-*  
 18 *sults in—*

19 *“(A) the Commissioner of Social Security*  
 20 *making a benefit payment that should not have*  
 21 *been made, or*

22 *“(B) an individual suffering a financial*  
 23 *loss due to the defendant's violation of subsection*  
 24 *(a) in his or her capacity as the individual's*

1           *representative payee appointed pursuant to sec-*  
2           *tion 807(i).*

3           “(2) *RELATED PROVISIONS.*—Sections 3612,  
4           3663, and 3664 of title 18, United States Code, shall  
5           *apply with respect to the issuance and enforcement of*  
6           *orders of restitution under this subsection. In so ap-*  
7           *plying such sections, the Commissioner of Social Se-*  
8           *curity shall be considered the victim.*

9           “(3) *STATED REASONS FOR NOT ORDERING RES-*  
10          *TITUTION.*—*If the court does not order restitution, or*  
11          *orders only partial restitution, under this subsection,*  
12          *the court shall state on the record the reasons therefor.*

13          “(4) *RECEIPT OF RESTITUTION PAYMENTS.*—

14                 “(A) *IN GENERAL.*—*Except as provided in*  
15                 *subparagraph (B), funds paid to the Commis-*  
16                 *sioner of Social Security as restitution pursuant*  
17                 *to a court order shall be deposited as miscella-*  
18                 *neous receipts in the general fund of the Treas-*  
19                 *ury.*

20                 “(B) *PAYMENT TO THE INDIVIDUAL.*—*In the*  
21                 *case of funds paid to the Commissioner of Social*  
22                 *Security pursuant to paragraph (1)(B), the*  
23                 *Commissioner of Social Security shall certify for*  
24                 *payment to the individual described in such*  
25                 *paragraph an amount equal to the lesser of the*



1           *amount of the funds so paid or the individual's*  
2           *outstanding financial loss as described in such*  
3           *paragraph, except that such amount may be re-*  
4           *duced by any overpayment of benefits owed*  
5           *under this title, title II, or title XVI by the indi-*  
6           *vidual.”.*

7           *(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the*  
8           *Social Security Act (42 U.S.C. 1383a) is amended—*

9                     *(1) by redesignating subsection (b) as subsection*  
10            *(c); and*

11                    *(2) by inserting after subsection (a) the fol-*  
12            *lowing:*

13                    *“(b)(1) Any Federal court, when sentencing a defend-*  
14            *ant convicted of an offense under subsection (a), may order,*  
15            *in addition to or in lieu of any other penalty authorized*  
16            *by law, that the defendant make restitution to the Commis-*  
17            *sioner of Social Security, in any case in which such offense*  
18            *results in—*

19                    *“(A) the Commissioner of Social Security mak-*  
20            *ing a benefit payment that should not have been*  
21            *made, or*

22                    *“(B) an individual suffering a financial loss due*  
23            *to the defendant's violation of subsection (a) in his or*  
24            *her capacity as the individual's representative payee*  
25            *appointed pursuant to section 1631(a)(2).*

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

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

9       “(4)(A) Except as provided in subparagraph (B),  
10 funds paid to the Commissioner of Social Security as res-  
11 titution pursuant to a court order shall be deposited as mis-  
12 cellaneous receipts in the general fund of the Treasury.

13       “(B) In the case of funds paid to the Commissioner  
14 of Social Security pursuant to paragraph (1)(B), the Com-  
15 missioner of Social Security shall certify for payment to  
16 the individual described in such paragraph an amount  
17 equal to the lesser of the amount of the funds so paid or  
18 the individual’s outstanding financial loss as described in  
19 such paragraph, except that such amount may be reduced  
20 by any overpayment of benefits owed under this title, title  
21 II, or title VIII by the individual.”; and

22               (3) by amending subsection (c) (as redesignated  
23 by paragraph (1)) by striking “(1) If a person” and  
24 all that follows through “(2)”.

1       (d) *EFFECTIVE DATE.*—The amendments made by  
 2 subsections (a), (b), and (c) shall apply with respect to vio-  
 3 lations occurring on or after the date of enactment of this  
 4 Act.

5       **SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF**  
 6                                   **BENEFIT OVERPAYMENTS.**

7       (a) *IN GENERAL.*—Section 1147 of the Social Security  
 8 Act (42 U.S.C. 1320b–17) is amended to read as follows:

9       “*CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM*  
 10                                   *BENEFITS*

11       “(a) *IN GENERAL.*—Subject to subsection (b), whenever  
 12 the Commissioner of Social Security determines that more  
 13 than the correct amount of any payment has been made  
 14 to a person under a program described in subsection (e),  
 15 the Commissioner of Social Security may recover the  
 16 amount incorrectly paid by decreasing any amount which  
 17 is payable to such person under any other program speci-  
 18 fied in that subsection.

19       “(b) *LIMITATION APPLICABLE TO CURRENT BENE-*  
 20 *FITS.*—

21               “(1) *IN GENERAL.*—In carrying out subsection  
 22 (a), the Commissioner of Social Security may not de-  
 23 crease the monthly amount payable to an individual  
 24 under a program described in subsection (e) that is  
 25 paid when regularly due—

1           “(A) *in the case of benefits under title II or*  
2           *VIII, by more than 10 percent of the amount of*  
3           *the benefit payable to the person for that month*  
4           *under such title; and*

5           “(B) *in the case of benefits under title XVI,*  
6           *by an amount greater than the lesser of—*

7                   “(i) *the amount of the benefit payable*  
8                   *to the person for that month; or*

9                   “(ii) *an amount equal to 10 percent of*  
10                  *the person’s income for that month (includ-*  
11                  *ing such monthly benefit but excluding pay-*  
12                  *ments under title II when recovery is also*  
13                  *made from title II payments and excluding*  
14                  *income excluded pursuant to section*  
15                  *1612(b)).*

16           “(2) *EXCEPTION.—Paragraph (1) shall not*  
17           *apply if—*

18                   “(A) *the person or the spouse of the person*  
19                   *was involved in willful misrepresentation or con-*  
20                   *cealment of material information in connection*  
21                   *with the amount incorrectly paid; or*

22                   “(B) *the person so requests.*

23           “(c) *NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT*  
24           *UNDER TITLE VIII OR XVI.—In any case in which the*  
25           *Commissioner of Social Security takes action in accordance*

1 *with subsection (a) to recover an amount incorrectly paid*  
2 *to any person, neither that person, nor (with respect to the*  
3 *program described in subsection (e)(3)) any individual*  
4 *whose eligibility for benefits under such program or whose*  
5 *amount of such benefits, is determined by considering any*  
6 *part of that person's income, shall, as a result of such*  
7 *action—*

8           “(1) *become eligible for benefits under the pro-*  
9           *gram described in paragraph (2) or (3) of subsection*  
10          *(e); or*

11           “(2) *if such person or individual is otherwise so*  
12          *eligible, become eligible for increased benefits under*  
13          *such program.*

14          “(d) *INAPPLICABILITY OF PROHIBITION AGAINST AS-*  
15          *SESSMENT AND LEGAL PROCESS.—Section 207 shall not*  
16          *apply to actions taken under the provisions of this section*  
17          *to decrease amounts payable under titles II and XVI.*

18          “(e) *PROGRAMS DESCRIBED.—The programs described*  
19          *in this subsection are the following:*

20               “(1) *The old-age, survivors, and disability insur-*  
21               *ance benefits program under title II.*

22               “(2) *The special benefits for certain World War*  
23               *II veterans program under title VIII.*

24               “(3) *The supplemental security income benefits*  
25               *program under title XVI (including, for purposes of*

1        *this section, State supplementary payments paid by*  
2        *the Commissioner pursuant to an agreement under*  
3        *section 1616(a) of this Act or section 212(b) of Public*  
4        *Law 93–66).”.*

5        *(b) CONFORMING AMENDMENTS.—*

6                *(1) Section 204(g) of the Social Security Act (42*  
7        *U.S.C. 404(g)) is amended to read as follows:*

8                *“(g) For provisions relating to the cross-program re-*  
9        *covery of overpayments made under programs administered*  
10        *by the Commissioner of Social Security, see section 1147.”.*

11                *(2) Section 808 of the Social Security Act (42*  
12        *U.S.C. 1008) is amended—*

13                        *(A) in subsection (a)(1)—*

14                                *(i) by striking subparagraph (B);*

15                                *(ii) in the matter preceding subpara-*  
16        *graph (A), by striking “any payment” and*  
17        *all that follows through “under this title”*  
18        *and inserting “any payment under this*  
19        *title”; and*

20                                *(iii) by striking “; or” and inserting a*  
21        *period;*

22                                *(B) by striking subsection (b) and redesign-*  
23        *ating subsections (c), (d), and (e) as subsections*  
24        *(b), (c), and (d), respectively; and*

25                                *(C) by adding at the end the following:*

1       “(e) *CROSS-PROGRAM RECOVERY OF OVERPAY-*  
 2 *MENTS.—For provisions relating to the cross-program re-*  
 3 *covery of overpayments made under programs administered*  
 4 *by the Commissioner of Social Security, see section 1147.”.*

5           (3) *Section 1147A of the Social Security Act (42*  
 6 *U.S.C. 1320b–18) is repealed.*

7           (4) *Section 1631(b) of the Social Security Act*  
 8 *(42 U.S.C. 1383(b)) is amended—*

9           (A) *in paragraph (1)(B)—*

10           (i) *by striking “excluding any other”*  
 11 *and inserting “excluding payments under*  
 12 *title II when recovery is made from title II*  
 13 *payments pursuant to section 1147 and ex-*  
 14 *cluding”; and*

15           (ii) *by striking “50 percent of”; and*

16           (B) *by striking paragraph (6) and inserting*  
 17 *the following:*

18       “(6) *For provisions relating to the cross-program re-*  
 19 *covery of overpayments made under programs administered*  
 20 *by the Commissioner of Social Security, see section 1147.”.*

21       (c) *EFFECTIVE DATE.—The amendments and repeal*  
 22 *made by this section shall take effect on the date of enact-*  
 23 *ment of this Act, and shall be effective with respect to over-*  
 24 *payments under titles II, VIII, and XVI of the Social Secu-*  
 25 *rity Act that are outstanding on or after such date.*

1 **SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS**  
2 **TO PERSONS NOT AUTHORIZED TO WORK IN**  
3 **THE UNITED STATES.**

4 (a) *FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.*—Section 214 (42 U.S.C. 414) is amended—

6 (1) *in subsection (a), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;*

9 (2) *in subsection (b), by inserting before the period at the end the following: “, and who satisfies the criterion specified in subsection (c)”;* and

12 (3) *by adding at the end the following:*

13 “(c) *For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual,*

14 *if not a United States citizen or national—*

16 “(1) *has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or*

20 “(2) *at the time any such quarters of coverage are earned—*

22 “(A) *is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,*

25 “(B) *is lawfully admitted temporarily to the United States for business (in the case of an*

26



1           *individual described in such subparagraph (B)*  
2           *or the performance as a crewman (in the case of*  
3           *an individual described in such subparagraph*  
4           *(D)), and*

5                     *“(C) the business engaged in or service as a*  
6                     *crewman performed is within the scope of the*  
7                     *terms of such individual’s admission to the*  
8                     *United States.”.*

9           **(b) DISABILITY BENEFITS.**—*Section 223(a)(1) of the*  
10 *Social Security Act (42 U.S.C. 423(a)(1)) is amended—*

11                     *(1) by redesignating subparagraphs (C) and (D)*  
12                     *as subparagraphs (D) and (E), respectively; and*

13                     *(2) by inserting after subparagraph (B), the fol-*  
14                     *lowing:*

15                     *“(C) if not a United States citizen or national—*

16                             *“(i) has been assigned a social security ac-*  
17                             *count number that was, at the time of assign-*  
18                             *ment, or at any later time, consistent with the*  
19                             *requirements of subclause (I) or (III) of section*  
20                             *205(c)(2)(B)(i); or*

21                             *“(ii) at the time any quarters of coverage*  
22                             *are earned—*

23                                     *“(I) is described in subparagraph (B)*  
24                                     *or (D) of section 101(a)(15) of the Immigra-*  
25                                     *tion and Nationality Act,*

1                   “(II) is lawfully admitted temporarily  
2                   to the United States for business (in the  
3                   case of an individual described in such sub-  
4                   paragraph (B)) or the performance as a  
5                   crewman (in the case of an individual de-  
6                   scribed in such subparagraph (D)), and

7                   “(III) the business engaged in or serv-  
8                   ice as a crewman performed is within the  
9                   scope of the terms of such individual’s ad-  
10                  mission to the United States.”.

11               (c) *EFFECTIVE DATE.*—The amendments made by this  
12 section apply to benefit applications based on social secu-  
13 rity account numbers issued on or after January 1, 2004.

14               **TITLE        III—ATTORNEY        REP-**  
15               **RESENTATIVE FEE PAYMENT**  
16               **SYSTEM IMPROVEMENTS**

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

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

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

1           (2) *by adding at the end the following: “In the*  
2 *case of any calendar year beginning after the amend-*  
3 *ments made by section 301 of the Social Security*  
4 *Protection Act of 2003 take effect, the dollar amount*  
5 *specified in the preceding sentence (including a pre-*  
6 *viously adjusted amount) shall be adjusted annually*  
7 *under the procedures used to adjust benefit amounts*  
8 *under section 215(i)(2)(A)(ii), except such adjustment*  
9 *shall be based on the higher of \$75 or the previously*  
10 *adjusted amount that would have been in effect for*  
11 *December of the preceding year, but for the rounding*  
12 *of such amount pursuant to the following sentence.*  
13 *Any amount so adjusted that is not a multiple of \$1*  
14 *shall be rounded to the next lowest multiple of \$1, but*  
15 *in no case less than \$75.”.*

16           ***(b) EFFECTIVE DATE.***—*The amendments made by this*  
17 *section shall apply with respect to fees for representation*  
18 *of claimants which are first required to be certified or paid*  
19 *under section 206 of the Social Security Act on or after*  
20 *the first day of the first month that begins after 180 days*  
21 *after the date of the enactment of this Act.*

22 **SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAY-**  
23 **MENT SYSTEM TO TITLE XVI CLAIMS.**

24           ***(a) IN GENERAL.***—*Section 1631(d)(2) of the Social Se-*  
25 *curity Act (42 U.S.C. 1383(d)(2)) is amended—*

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

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

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

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

10           (2) *in subparagraph (A)(i)—*

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

15                 (B) *by striking “and” at the end;*

16           (3) *by striking subparagraph (A)(ii) and insert-*  
17 *ing the following:*

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

23                 “(iii) *by substituting, in subsection (a)(2)(C)(i),*  
24 *the phrase ‘under title II’ for the phrase ‘under title*  
25 *XVI’;*

1           “(iv) by substituting, in subsection (b)(1)(A), the  
2           phrase ‘pay the amount of such fee’ for the phrase  
3           ‘certify the amount of such fee for payment’ and by  
4           striking, in subsection (b)(1)(A), the phrase ‘or cer-  
5           tified for payment’; and

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

13          (4) by redesignating subparagraph (B) as sub-  
14          paragraph (D) and inserting after subparagraph (A)  
15          the following:

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

22                 “(i) so much of the maximum fee as does not ex-  
23                 ceed 25 percent of such past-due benefits (as deter-  
24                 mined before any applicable reduction under section  
25                 1631(g) and reduced by the amount of any reduction

1        *in benefits under this title or title II pursuant to sec-*  
2        *tion 1127(a)), or*

3            *“(ii) the amount of past-due benefits available*  
4        *after any applicable reductions under sections*  
5        *1631(g) and 1127(a).*

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

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

1 preceding year, but for the rounding of such amount pursu-  
2 ant to the following sentence. Any amount so adjusted that  
3 is not a multiple of \$1 shall be rounded to the next lowest  
4 multiple of \$1, but in no case less than \$75.

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

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

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

19 “(v) Assessments on attorneys collected under this sub-  
20 paragraph shall be deposited as miscellaneous receipts in  
21 the general fund of the Treasury.

22 “(vi) The assessments authorized under this subpara-  
23 graph shall be collected and available for obligation only  
24 to the extent and in the amount provided in advance in  
25 appropriations Acts. Amounts so appropriated are author-

1 ized to remain available until expended, for administrative  
2 expenses in carrying out this title and related laws.”.

3 (b) *CONFORMING AMENDMENTS.*—Section 1631(a) of  
4 the Social Security Act (42 U.S.C. 1383(a)) is amended—

5 (1) in paragraph (2)(F)(i)(II), by inserting  
6 “and payment of attorney fees under subsection  
7 (d)(2)(B)” after “subsection (g)”; and

8 (2) in paragraph (10)(A)—

9 (A) in the matter preceding clause (i), by  
10 inserting “and payment of attorney fees under  
11 subsection (d)(2)(B)” after “subsection (g)”; and

12 (B) in the matter following clause (ii), by  
13 inserting “and payment of attorney fees under  
14 subsection (d)(2)(B)” after “State”.

15 (c) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—The amendments made by  
17 this section shall apply with respect to fees for rep-  
18 resentation of claimants which are first required to be  
19 paid under section 1631(d)(2) of the Social Security  
20 Act on or after the date of the submission by the Com-  
21 missioner of Social Security to each House of Con-  
22 gress pursuant to section 303(d) of this Act of written  
23 notice of completion of full implementation of the re-  
24 quirements for operation of the demonstration project  
25 under section 303 of this Act.



1           (2) *SUNSET.*—*Such amendments shall not apply*  
2           *with respect to fees for representation of claimants in*  
3           *the case of any claim for benefits with respect to*  
4           *which the agreement for representation is entered into*  
5           *after 5 years after the date described in paragraph*  
6           *(1).*

7   **SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PRO-**  
8                   **VIDING FOR EXTENSION OF FEE WITH-**  
9                   **HOLDING PROCEDURES TO NON-ATTORNEY**  
10                  **REPRESENTATIVES.**

11           (a) *IN GENERAL.*—*The Commissioner of Social Secu-*  
12           *rity (hereafter in this section referred to as the “Commis-*  
13           *sioner”)* shall develop and carry out a nationwide dem-  
14           *onstration project under this section with respect to agents*  
15           *and other persons, other than attorneys, who represent*  
16           *claimants under titles II and XVI of the Social Security*  
17           *Act before the Commissioner. The demonstration project*  
18           *shall be designed to determine the potential results of ex-*  
19           *tending to such representatives the fee withholding proce-*  
20           *dures and assessment procedures that apply under sections*  
21           *206 and section 1631(d)(2) of such Act to attorneys seeking*  
22           *direct payment out of past due benefits under such titles*  
23           *and shall include an analysis of the effect of such extension*  
24           *on claimants and program administration.*

1           (b) *STANDARDS FOR INCLUSION IN DEMONSTRATION*  
2 *PROJECT.—Fee-withholding procedures may be extended*  
3 *under the demonstration project carried out pursuant to*  
4 *subsection (a) to any non-attorney representative only if*  
5 *such representative meets at least the following pre-*  
6 *requisites:*

7           (1) *The representative has been awarded a bach-*  
8 *elor’s degree from an accredited institution of higher*  
9 *education, or has been determined by the Commis-*  
10 *sioner to have equivalent qualifications derived from*  
11 *training and work experience.*

12           (2) *The representative has passed an examina-*  
13 *tion, written and administered by the Commissioner,*  
14 *which tests knowledge of the relevant provisions of the*  
15 *Social Security Act and the most recent developments*  
16 *in agency and court decisions affecting titles II and*  
17 *XVI of such Act.*

18           (3) *The representative has secured professional*  
19 *liability insurance, or equivalent insurance, which the*  
20 *Commissioner has determined to be adequate to pro-*  
21 *tect claimants in the event of malpractice by the rep-*  
22 *resentative.*

23           (4) *The representative has undergone a criminal*  
24 *background check to ensure the representative’s fitness*  
25 *to practice before the Commissioner.*

1           (5) *The representative demonstrates ongoing*  
2 *completion of qualified courses of continuing edu-*  
3 *cation, including education regarding ethics and pro-*  
4 *fessional conduct, which are designed to enhance pro-*  
5 *fessional knowledge in matters related to entitlement*  
6 *to, or eligibility for, benefits based on disability under*  
7 *titles II and XVI of such Act. Such continuing edu-*  
8 *cation, and the instructors providing such education,*  
9 *shall meet such standards as the Commissioner may*  
10 *prescribe.*

11           (c) *ASSESSMENT OF FEES.*—

12           (1) *IN GENERAL.*—*The Commissioner may assess*  
13 *representatives reasonable fees to cover the cost to the*  
14 *Social Security Administration of administering the*  
15 *prerequisites described in subsection (b).*

16           (2) *DISPOSITION OF FEES.*—*Fees collected under*  
17 *paragraph (1) shall be credited to the Federal Old-Age*  
18 *and Survivors Insurance Trust Fund and the Federal*  
19 *Disability Insurance Trust Fund, or deposited as*  
20 *miscellaneous receipts in the general fund of the*  
21 *Treasury, based on such allocations as the Commis-*  
22 *sioner of Social Security determines appropriate.*

23           (3) *AUTHORIZATION OF APPROPRIATIONS.*—*The*  
24 *fees authorized under this subparagraph shall be col-*  
25 *lected and available for obligation only to the extent*

1        *and in the amount provided in advance in appro-*  
2        *propriations Acts. Amounts so appropriated are author-*  
3        *ized to remain available until expended for admin-*  
4        *istering the prerequisites described in subsection (b).*

5        *(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE*  
6        *WITHHOLDING PROCEDURES.—Not later than 1 year after*  
7        *the date of enactment of this Act, the Commissioner shall*  
8        *complete such actions as are necessary to fully implement*  
9        *the requirements for full operation of the demonstration*  
10       *project and shall submit to each House of Congress a writ-*  
11       *ten notice of the completion of such actions. The applica-*  
12       *bility under this section to non-attorney representatives of*  
13       *the fee withholding procedures and assessment procedures*  
14       *under sections 206 and 1631(d)(2) of the Social Security*  
15       *Act shall be effective with respect to fees for representation*  
16       *of claimants in the case of claims for benefits with respect*  
17       *to which the agreement for representation is entered into*  
18       *by such non-attorney representatives during the period be-*  
19       *ginning with the date of the submission of such notice by*  
20       *the Commissioner to Congress and ending with the termi-*  
21       *nation date of the demonstration project.*

22       *(e) REPORTS BY THE COMMISSIONER; TERMI-*  
23       *NATION.—*

24                *(1) INTERIM REPORTS.—On or before the date*  
25        *which is 1 year after the date of enactment of this*

1     *Act, and annually thereafter, the Commissioner shall*  
2     *transmit to the Committee on Ways and Means of the*  
3     *House of Representatives and to the Committee on Fi-*  
4     *nance of the Senate an annual interim report on the*  
5     *progress of the demonstration project carried out*  
6     *under this section, together with any related data and*  
7     *materials that the Commissioner may consider appro-*  
8     *priate.*

9             (2) *TERMINATION DATE AND FINAL REPORT.—*  
10     *The termination date of the demonstration project*  
11     *under this section is the date which is 5 years after*  
12     *the date of the submission of the notice by the Com-*  
13     *missioner to each House of Congress pursuant to sub-*  
14     *section (d). The authority under the preceding provi-*  
15     *sions of this section shall not apply in the case of*  
16     *claims for benefits with respect to which the agree-*  
17     *ment for representation is entered into after the ter-*  
18     *mination date. Not later than 90 days after the ter-*  
19     *mination date, the Commissioner shall submit to the*  
20     *Committee on Ways and Means of the House of Rep-*  
21     *resentatives and to the Committee on Finance of the*  
22     *Senate a final report with respect to the demonstra-*  
23     *tion project.*

1 **SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROC-**  
2 **ESS FOR CLAIMANT REPRESENTATIVES.**

3 (a) *STUDY.*—

4 (1) *IN GENERAL.*—*The Comptroller General of*  
5 *the United States shall study and evaluate the ap-*  
6 *pointment and payment of claimant representatives*  
7 *appearing before the Commissioner of Social Security*  
8 *in connection with benefit claims under titles II and*  
9 *XVI of the Social Security Act (42 U.S.C. 401 et seq.,*  
10 *1381 et seq.) in each of the following groups:*

11 (A) *Attorney claimant representatives who*  
12 *elect fee withholding under section 206 or*  
13 *1631(d)(2) of such Act.*

14 (B) *Attorney claimant representatives who*  
15 *do not elect such fee withholding.*

16 (C) *Non-attorney claimant representatives*  
17 *who are eligible for, and elect, such fee with-*  
18 *holding.*

19 (D) *Non-attorney claimant representatives*  
20 *who are eligible for, but do not elect, such fee*  
21 *withholding.*

22 (E) *Non-attorney claimant representatives*  
23 *who are not eligible for such fee withholding.*

24 (2) *MATTERS TO BE STUDIED.*—*In conducting*  
25 *the study under this subsection, the Comptroller Gen-*

1        *eral shall, for each of group of claimant representa-*  
2        *tives described in paragraph (1)—*

3                *(A) conduct a survey of the relevant charac-*  
4        *teristics of such claimant representatives*  
5        *including—*

6                *(i) qualifications and experience;*

7                *(ii) the type of employment of such*  
8        *claimant representatives, such as with an*  
9        *advocacy group, State or local government,*  
10        *or insurance or other company;*

11                *(iii) geographical distribution between*  
12        *urban and rural areas;*

13                *(iv) the nature of claimants' cases,*  
14        *such as whether the cases are for disability*  
15        *insurance benefits only, supplemental secu-*  
16        *rity income benefits only, or concurrent*  
17        *benefits;*

18                *(v) the relationship of such claimant*  
19        *representatives to claimants, such as wheth-*  
20        *er the claimant is a friend, family member,*  
21        *or client of the claimant representative; and*

22                *(vi) the amount of compensation (if*  
23        *any) paid to the claimant representatives*  
24        *and the method of payment of such com-*  
25        *ensation;*

1           (B) assess the quality and effectiveness of  
2           the services provided by such claimant represent-  
3           atives, including a comparison of claimant satis-  
4           faction or complaints and benefit outcomes, ad-  
5           justed for differences in claimant representatives'  
6           caseload, claimants' diagnostic group, level of de-  
7           cision, and other relevant factors;

8           (C) assess the interactions between fee with-  
9           holding under sections 206 and 1631(d)(2) of  
10          such Act (including under the amendments made  
11          by section 302 of this Act and under the dem-  
12          onstration project conducted under section 303 of  
13          this Act), the windfall offset under section 1127  
14          of such Act, and interim assistance reimburse-  
15          ments under section 1631(g) of such Act;

16          (D) assess the potential results of making  
17          permanent the fee withholding procedures under  
18          sections 206 and 1631(d)(2) of such Act under  
19          the amendments made by section 302 of this Act  
20          and under the demonstration project conducted  
21          under section 303 of this Act with respect to pro-  
22          gram administration and claimant outcomes,  
23          and assess whether the rules and procedures em-  
24          ployed by the Commissioner of Social Security to  
25          evaluate the qualifications and performance of



1           *claimant representatives should be revised prior*  
2           *to making such procedures permanent; and*

3                   *(E) make such recommendations for admin-*  
4           *istrative and legislative changes as the Comp-*  
5           *troller General of the United States considers*  
6           *necessary or appropriate.*

7           *(3) CONSULTATION REQUIRED.—The Comptroller*  
8           *General of the United States shall consult with bene-*  
9           *ficiaries under title II of such Act, beneficiaries under*  
10          *title XVI of such Act, claimant representatives of*  
11          *beneficiaries under such titles, and other interested*  
12          *parties, in conducting the study and evaluation re-*  
13          *quired under paragraph (1).*

14          *(b) REPORT.—Not later than 3 years after the date*  
15          *of the submission by the Commissioner of Social Security*  
16          *to each House of Congress pursuant to section 303(d) of*  
17          *this Act of written notice of completion of full implementa-*  
18          *tion of the requirements for operation of the demonstration*  
19          *project under section 303 of this Act, the Comptroller Gen-*  
20          *eral of the United States shall submit to the Committee on*  
21          *Ways and Means of the House of Representatives and the*  
22          *Committee on Finance of the Senate a report on the results*  
23          *of the study and evaluation conducted pursuant to sub-*  
24          *section (a).*

1 **TITLE IV—MISCELLANEOUS AND**  
2 **TECHNICAL AMENDMENTS**  
3 **Subtitle A—Amendments Relating**  
4 **to the Ticket to Work and Work**  
5 **Incentives Improvement Act of**  
6 **1999**

7 **SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY**  
8 **SUNSET DATE TO NEW PROJECTS.**

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

11 *(1) in the first sentence of subsection (c), by*  
12 *striking “conducted under subsection (a)” and insert-*  
13 *ing “initiated under subsection (a) on or before De-*  
14 *cember 17, 2005”; and*

15 *(2) in subsection (d)(2), by striking the first sen-*  
16 *tence and inserting the following: “The authority to*  
17 *initiate projects under the preceding provisions of this*  
18 *section shall terminate on December 18, 2005.”.*

19 **SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE**  
20 **IN CONNECTION WITH DEMONSTRATION**  
21 **PROJECTS PROVIDING FOR REDUCTIONS IN**  
22 **DISABILITY INSURANCE BENEFITS BASED ON**  
23 **EARNINGS.**

24 *Section 302(c) of the Ticket to Work and Work Incen-*  
25 *tives Improvement Act of 1999 (42 U.S.C. 434 note) is*

1 amended by striking “(42 U.S.C. 401 et seq.),” and insert-  
2 ing “(42 U.S.C. 401 et seq.) and the requirements of section  
3 1148 of such Act (42 U.S.C. 1320b–19) as they relate to  
4 the program established under title II of such Act,”.

5 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**  
6 **VIDING FOR REDUCTIONS IN DISABILITY IN-**  
7 **SURANCE BENEFITS BASED ON EARNINGS.**

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

11 “(f) *EXPENDITURES.*—Administrative expenses for  
12 demonstration projects under this section shall be paid from  
13 funds available for the administration of title II or XVIII  
14 of the Social Security Act, as appropriate. Benefits payable  
15 to or on behalf of individuals by reason of participation  
16 in projects under this section shall be made from the Federal  
17 Disability Insurance Trust Fund and the Federal Old-Age  
18 and Survivors Insurance Trust Fund, as determined appro-  
19 priate by the Commissioner of Social Security, and from  
20 the Federal Hospital Insurance Trust Fund and the Federal  
21 Supplementary Medical Insurance Trust Fund, as deter-  
22 mined appropriate by the Secretary of Health and Human  
23 Services, from funds available for benefits under such title  
24 II or XVIII.”.

1 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**  
2 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**  
3 **UALS.**

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

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

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

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

13 “(B) *who is receiving a cash payment de-*  
14 *scribed in section 1616(a) of this Act or a sup-*  
15 *plementary payment described in section*  
16 *212(a)(3) of Public Law 93–66 (without regard*  
17 *to whether such payment is paid by the Commis-*  
18 *sioner pursuant to an agreement under section*  
19 *1616(a) of this Act or under section 212(b) of*  
20 *Public Law 93–66);*

21 “(C) *who, pursuant to section 1619(b) of*  
22 *this Act, is considered to be receiving benefits*  
23 *under title XVI of this Act; or*

24 “(D) *who is entitled to benefits under part*  
25 *A of title XVIII of this Act by reason of the pe-*  
26 *ultimate sentence of section 226(b) of this Act.”.*

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

5           (b) *STATE GRANTS FOR WORK INCENTIVES ASSIST-*  
 6           *ANCE.*—

7           (1) *DEFINITION OF DISABLED BENEFICIARY.*—  
 8           *Section 1150(g)(2) of such Act (42 U.S.C. 1320b-*  
 9           *21(g)(2)) is amended to read as follows:*

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

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

14                     “(B) *who is receiving a cash payment de-*  
 15                     *scribed in section 1616(a) of this Act or a sup-*  
 16                     *plementary payment described in section*  
 17                     *212(a)(3) of Public Law 93–66 (without regard*  
 18                     *to whether such payment is paid by the Commis-*  
 19                     *sioner pursuant to an agreement under section*  
 20                     *1616(a) of this Act or under section 212(b) of*  
 21                     *Public Law 93–66);*

22                     “(C) *who, pursuant to section 1619(b) of*  
 23                     *this Act, is considered to be receiving benefits*  
 24                     *under title XVI of this Act; or*

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

4           (2) *ADVOCACY OR OTHER SERVICES NEEDED TO*  
5           *MAINTAIN GAINFUL EMPLOYMENT.*—Section  
6           1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is  
7           amended by striking “secure or regain” and inserting  
8           “secure, maintain, or regain”.

9           (3) *EFFECTIVE DATE.*—The amendments made  
10          by this subsection shall apply with respect to pay-  
11          ments provided after the date of the enactment of this  
12          Act.

13 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**  
14                 **MENT FOR CERTAIN PURPOSES OF INDI-**  
15                 **VIDUAL WORK PLANS UNDER THE TICKET TO**  
16                 **WORK AND SELF-SUFFICIENCY PROGRAM.**

17          (a) *IN GENERAL.*—Section 1148(g)(1) of the Social Se-  
18          curity Act (42 U.S.C. 1320b–19(g)(1)) is amended by add-  
19          ing at the end, after and below subparagraph (E), the fol-  
20          lowing:

21          “An individual work plan established pursuant to  
22          this subsection shall be treated, for purposes of section  
23          51(d)(6)(B)(i) of the Internal Revenue Code of 1986,  
24          as an individualized written plan for employment

1        *under a State plan for vocational rehabilitation serv-*  
 2        *ices approved under the Rehabilitation Act of 1973.”.*

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

7        **SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK**  
 8                    **AND SELF-SUFFICIENCY PROGRAM.**

9        (a) *GAO REPORT.*—*Not later than 12 months after the*  
 10        *date of enactment of this Act, the Comptroller General of*  
 11        *the United States shall submit a report to Congress regard-*  
 12        *ing the Ticket to Work and Self-Sufficiency Program estab-*  
 13        *lished under section 1148 of the Social Security Act (42*  
 14        *U.S.C. 1320b–19) that—*

15                (1) *examines the annual and interim reports*  
 16                *issued by States, the Ticket to Work and Work Incen-*  
 17                *tives Advisory Panel established under section 101(f)*  
 18                *of the Ticket to Work and Work Incentives Improve-*  
 19                *ment Act of 1999 (42 U.S.C. 1320b–19 note), and the*  
 20                *Commissioner of Social Security regarding such pro-*  
 21                *gram;*

22                (2) *assesses the effectiveness of the activities car-*  
 23                *ried out under such program; and*

24                (3) *recommends such legislative or administra-*  
 25                *tive changes as the Comptroller General determines*

1       are appropriate to improve the effectiveness of such  
2       program.

3       **SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR**  
4   **CERTAIN WORK INCENTIVES PROGRAMS.**

5           (a) *BENEFITS PLANNING, ASSISTANCE, AND OUT-*  
6       *REACH.*—Section 1149(d) of the Social Security Act (42  
7       U.S.C. 1320b–20(d)) is amended by striking “2004” and  
8       inserting “2009”.

9           (b) *PROTECTION AND ADVOCACY.*—Section 1150(h) of  
10       the Social Security Act (42 U.S.C. 1320b–21(h)) is amend-  
11       ed by striking “2004” and inserting “2009”.

12                                   **Subtitle B—Miscellaneous**  
13                                   **Amendments**

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

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

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



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

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

5 (1) in paragraph (1), by striking “section 241(a)  
6 (other than under paragraph (1)(C) or (1)(E) thereof)  
7 of the Immigration and Nationality Act” and insert-  
8 ing “section 237(a) of the Immigration and Nation-  
9 ality Act (other than under paragraph (1)(C) of such  
10 section) or under section 212(a)(6)(A) of such Act”;

11 (2) in paragraph (2), by striking “section 241(a)  
12 of the Immigration and Nationality Act (other than  
13 under paragraph (1)(C) or (1)(E) thereof)” and in-  
14 serting “section 237(a) of the Immigration and Na-  
15 tionality Act (other than under paragraph (1)(C) of  
16 such section) or under section 212(a)(6)(A) of such  
17 Act”;

18 (3) in paragraph (3), by striking “paragraph  
19 (19) of section 241(a) of the Immigration and Nation-  
20 ality Act (relating to persecution of others on account  
21 of race, religion, national origin, or political opinion,  
22 under the direction of or in association with the Nazi  
23 government of Germany or its allies) shall be consid-  
24 ered to have been deported under such paragraph  
25 (19)” and inserting “paragraph (4)(D) of section  
26 241(a) of the Immigration and Nationality Act (re-

1 *lating to participating in Nazi persecutions or geno-*  
 2 *cide) shall be considered to have been deported under*  
 3 *such paragraph (4)(D)”; and*

4 *(4) in paragraph (3) (as amended by paragraph*  
 5 *(3) of this subsection), by striking “241(a)” and in-*  
 6 *serting “237(a)”.*

7 *(b) TECHNICAL CORRECTIONS.—*

8 *(1) TERMINOLOGY REGARDING REMOVAL FROM*  
 9 *THE UNITED STATES.—Section 202(n) of the Social*  
 10 *Security Act (42 U.S.C. 402(n)) (as amended by sub-*  
 11 *section (a)) is amended further—*

12 *(A) by striking “deportation” each place it*  
 13 *appears and inserting “removal”;*

14 *(B) by striking “deported” each place it ap-*  
 15 *pears and inserting “removed”; and*

16 *(C) in the heading, by striking “Deporta-*  
 17 *tion” and inserting “Removal”.*

18 *(2) REFERENCES TO THE SECRETARY OF HOME-*  
 19 *LAND SECURITY.—Section 202(n) of the Social Secu-*  
 20 *rity Act (42 U.S.C. 402(n)) (as amended by sub-*  
 21 *section (a) and paragraph (1)) is amended further by*  
 22 *inserting “or the Secretary of Homeland Security”*  
 23 *after “the Attorney General” each place it appears.*

24 *(c) EFFECTIVE DATES.—*

25 *(1) IN GENERAL.—The amendment made by—*

1           (A) subsection (a)(1) shall apply to individ-  
2           uals with respect to whom the Commissioner of  
3           Social Security receives a removal notice after  
4           the date of the enactment of this Act;

5           (B) subsection (a)(2) shall apply with re-  
6           spect to notifications of removals received by the  
7           Commissioner of Social Security after the date of  
8           enactment of this Act; and

9           (C) subsection (a)(3) shall be effective as if  
10          enacted on March 1, 1991.

11          (2) *SUBSEQUENT CORRECTION OF CROSS-REF-*  
12          *ERENCE AND TERMINOLOGY.*—*The amendments made*  
13          *by subsections (a)(4) and (b)(1) shall be effective as*  
14          *if enacted on April 1, 1997.*

15          (3) *REFERENCES TO THE SECRETARY OF HOME-*  
16          *LAND SECURITY.*—*The amendment made by sub-*  
17          *section (b)(2) shall be effective as if enacted on March*  
18          *1, 2003.*

19 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**  
20 **QUIREMENTS.**

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

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

3           (B) *Section 1817(b)(2) of the Social Security Act*  
4 *(42 U.S.C. 1395i(b)(2)).*

5           (C) *Section 1841(b)(2) of the Social Security Act*  
6 *(42 U.S.C. 1395t(b)(2)).*

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

9           (B) *Section 221(i)(3) of the Social Security Act*  
10 *(42 U.S.C. 421(i)(3)).*

11 **SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING**  
12 **CERTAIN SURVIVOR BENEFITS.**

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

15           (1) *by redesignating subclauses (A) through (C)*  
16 *of clause (6) as subclauses (i) through (iii), respec-*  
17 *tively;*

18           (2) *by redesignating clauses (1) through (6) as*  
19 *clauses (A) through (F), respectively;*

20           (3) *in clause (E) (as redesignated), by inserting*  
21 *“except as provided in paragraph (2),” before “she*  
22 *was married”;*

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

24           (5) *by adding at the end the following:*

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

4               “(A) *the individual had been married prior to*  
5 *the individual’s marriage to the surviving wife,*

6               “(B) *the prior wife was institutionalized during*  
7 *the individual’s marriage to the prior wife due to*  
8 *mental incompetence or similar incapacity,*

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

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

20               “(E) *the individual married the surviving wife*  
21 *within 60 days after the prior wife’s death.”.*

22       (b) *WIDOWERS.—Section 216(g) of such Act (42*  
23 *U.S.C. 416(g)) is amended—*

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

4           (2) by redesignating clauses (1) through (6) as  
5 clauses (A) through (F), respectively;

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

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

10          (5) by adding at the end the following:

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

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

16           “(B) the prior husband was institutionalized  
17 during the individual’s marriage to the prior husband  
18 due to mental incompetence or similar incapacity,

19           “(C) during the period of the prior husband’s in-  
20 stitutionalization, the individual would have divorced  
21 the prior husband and married the surviving hus-  
22 band, but the individual did not do so because such  
23 divorce would have been unlawful, by reason of the  
24 prior husband’s institutionalization, under the laws  
25 of the State in which the individual was domiciled at

1 *the time (as determined based on evidence satisfactory*  
2 *to the Commissioner of Social Security),*

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

5 *“(E) the individual married the surviving hus-*  
6 *band within 60 days after the prior husband’s*  
7 *death.”.*

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

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

17 **SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA**  
18 **TAX EXEMPTIONS FOR AN INDIVIDUAL**  
19 **WHOSE EARNINGS ARE SUBJECT TO THE**  
20 **LAWS OF A TOTALIZATION AGREEMENT PART-**  
21 **NER.**

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

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

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

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

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

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

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

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



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

4 (a) *IN GENERAL.*—Section 202(k) of the Social Secu-  
5 rity Act (42 U.S.C. 402(k)) is amended by adding at the  
6 end the following:

7 “(5)(A) *The amount of a monthly insurance benefit*  
8 *of any individual for each month under subsection (b), (c),*  
9 *(e), (f), or (g) (as determined after application of the provi-*  
10 *sions of subsection (q) and the preceding provisions of this*  
11 *subsection) shall be reduced (but not below zero) by an*  
12 *amount equal to two-thirds of the amount of any monthly*  
13 *periodic benefit payable to such individual for such month*  
14 *which is based upon such individual’s earnings while in*  
15 *the service of the Federal Government or any State (or po-*  
16 *litical subdivision thereof, as defined in section 218(b)(2))*  
17 *if, during any portion of the last 60 months of such service*  
18 *ending with the last day such individual was employed by*  
19 *such entity—*

20 “(i) *such service did not constitute ‘employment’*  
21 *as defined in section 210, or*

22 “(ii) *such service was being performed while in*  
23 *the service of the Federal Government, and constituted*  
24 *‘employment’ as so defined solely by reason of—*

25 “(I) *clause (ii) or (iii) of subparagraph (G)*  
26 *of section 210(a)(5), where the lump-sum pay-*

1           *ment described in such clause (ii) or the ces-*  
2           *sation of coverage described in such clause (iii)*  
3           *(whichever is applicable) was received or oc-*  
4           *curred on or after January 1, 1988, or*

5           *“(II) an election to become subject to the*  
6           *Federal Employees’ Retirement System provided*  
7           *in chapter 84 of title 5, United States Code, or*  
8           *the Foreign Service Pension System provided in*  
9           *subchapter II of chapter 8 of title I of the For-*  
10          *oreign Service Act of 1980 made pursuant to law*  
11          *after December 31, 1987,*

12          *unless subparagraph (B) applies.*

13          *The amount of the reduction in any benefit under this sub-*  
14          *paragraph, if not a multiple of \$0.10, shall be rounded to*  
15          *the next higher multiple of \$0.10.*

16          *“(B)(i) Subparagraph (A)(i) shall not apply with re-*  
17          *spect to monthly periodic benefits based wholly on service*  
18          *as a member of a uniformed service (as defined in section*  
19          *210(m)).*

20          *“(ii) Subparagraph (A)(ii) shall not apply with re-*  
21          *spect to monthly periodic benefits based in whole or in part*  
22          *on service which constituted ‘employment’ as defined in sec-*  
23          *tion 210 if such service was performed for at least 60*  
24          *months in the aggregate during the period beginning Janu-*  
25          *ary 1, 1988, and ending with the close of the first calendar*

1 month as of the end of which such individual is eligible  
2 for benefits under this subsection and has made a valid ap-  
3 plication for such benefits.

4 “(C) For purposes of this paragraph, any periodic ben-  
5 efit which otherwise meets the requirements of subpara-  
6 graph (A), but which is paid on other than a monthly basis,  
7 shall be allocated on a basis equivalent to a monthly benefit  
8 (as determined by the Commissioner of Social Security)  
9 and such equivalent monthly benefit shall constitute a  
10 monthly periodic benefit for purposes of subparagraph (A).  
11 For purposes of this subparagraph, the term ‘periodic ben-  
12 efit’ includes a benefit payable in a lump sum if it is a  
13 commutation of, or a substitute for, periodic payments.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) WIFE’S INSURANCE BENEFITS.—Section  
16 202(b) of the Social Security Act (42 U.S.C. 402(b))  
17 is amended—

18 (A) in paragraph (2), by striking “sub-  
19 section (q) and paragraph (4) of this subsection”  
20 and inserting “subsections (k)(5) and (q)”; and

21 (B) by striking paragraph (4) and redesign-  
22 ating paragraph (5) as paragraph (4).

23 (2) HUSBAND’S INSURANCE BENEFITS.—Section  
24 202(c) of the Social Security Act (42 U.S.C. 402(c))  
25 is amended—

1           (A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

2  
3  
4           (B) in paragraph (2) as so redesignated, by striking “subsection (q) and paragraph (2) of this subsection” and inserting “subsections (k)(5) and (q)”.

5  
6  
7  
8           (3) WIDOW’S INSURANCE BENEFITS.—Section 9 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

10  
11           (A) in paragraph (2)(A), by striking “subsection (q), paragraph (7) of this subsection,” and inserting “subsection (k)(5), subsection (q),”; and

12  
13  
14           (B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

15  
16  
17  
18           (4) WIDOWER’S INSURANCE BENEFITS.—

19           (A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—

20  
21  
22           (i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

1           (ii) in paragraph (2) as so redesign-  
2           ated, by striking “subsection (q), para-  
3           graph (2) of this subsection,” and inserting  
4           “subsection (k)(5), subsection (q),”.

5           (B) CONFORMING AMENDMENTS.—

6           (i) Section 202(f)(1)(B) of the Social  
7           Security Act (42 U.S.C. 402(f)(1)(B)) is  
8           amended by striking “paragraph (5)” and  
9           inserting “paragraph (4)”.

10          (ii) Section 202(f)(1)(F) of the Social  
11          Security Act (42 U.S.C. 402(f)(1)(F)) is  
12          amended by striking “paragraph (6)” and  
13          “paragraph (5)” (in clauses (i) and (ii))  
14          and inserting “paragraph (5)” and “para-  
15          graph (4)”, respectively.

16          (iii) Section 202(f)(5)(A)(ii) of the So-  
17          cial Security Act (as redesignated by sub-  
18          paragraph (A)(i)) is amended by striking  
19          “paragraph (5)” and inserting “paragraph  
20          (4)”.

21          (iv) Section 202(k)(2)(B) of the Social  
22          Security Act (42 U.S.C. 402(k)(2)(B)) is  
23          amended by striking “or (f)(4)” each place  
24          it appears and inserting “or (f)(3)”.

1                   (v) Section 202(k)(3)(A) of the Social  
 2                   Security Act (42 U.S.C. 402(k)(3)(A)) is  
 3                   amended by striking “or (f)(3)” and insert-  
 4                   ing “or (f)(2)”.

5                   (vi) Section 202(k)(3)(B) of the Social  
 6                   Security Act (42 U.S.C. 402(k)(3)(B)) is  
 7                   amended by striking “or (f)(4)” and insert-  
 8                   ing “or (f)(3)”.

9                   (vii) Section 226(e)(1)(A)(i) of the So-  
 10                  cial Security Act (42 U.S.C.  
 11                  426(e)(1)(A)(i)) is amended by striking  
 12                  “and 202(f)(5)” and inserting “and  
 13                  202(f)(4)”.

14                  (5) *MOTHER’S AND FATHER’S INSURANCE BENE-*  
 15                  *FITS.*—Section 202(g) of the Social Security Act (42  
 16                  U.S.C. 402(g)) is amended—

17                         (A) in paragraph (2), by striking “Except  
 18                         as provided in paragraph (4) of this subsection,  
 19                         such” and inserting “Such”; and

20                         (B) by striking paragraph (4).

21                  (c) *EFFECTIVE DATE AND TRANSITIONAL RULE.*—

22                         (1) *IN GENERAL.*—The amendments made by  
 23                         this section shall apply with respect to applications  
 24                         for benefits under title II of the Social Security Act  
 25                         filed on or after the first day of the first month that

1 *begins after the date of enactment of this Act, except*  
2 *that such amendments shall not apply in connection*  
3 *with monthly periodic benefits of any individual*  
4 *based on earnings while in service described in section*  
5 *202(k)(5)(A) of the Social Security Act (in the matter*  
6 *preceding clause (i) thereof) if the last day of such*  
7 *service occurs before July 1, 2004.*

8 (2) *TRANSITIONAL RULE.—In the case of any in-*  
9 *dividual whose last day of service described in sub-*  
10 *paragraph (A) of section 202(k)(5) of the Social Secu-*  
11 *rity Act (as added by subsection (a) of this section)*  
12 *occurs within 5 years after the date of enactment of*  
13 *this Act—*

14 (A) *the 60-month period described in such*  
15 *subparagraph (A) shall be reduced (but not to*  
16 *less than 1 month) by the number of months of*  
17 *such service (in the aggregate and without regard*  
18 *to whether such months of service were contin-*  
19 *uous) which—*

20 (i) *were performed by the individual*  
21 *under the same retirement system on or be-*  
22 *fore the date of enactment of this Act, and*  
23 (ii) *constituted “employment” as de-*  
24 *fin ed in section 210 of the Social Security*  
25 *Act; and*

1                   (B) months of service necessary to fulfill the  
 2                   60-month period as reduced by subparagraph  
 3                   (A) of this paragraph must be performed after  
 4                   the date of enactment of this Act.

5 **SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WIND-**  
 6                   **FALL ELIMINATION PROVISION AND GOVERN-**  
 7                   **MENT PENSION OFFSET PROVISION.**

8                   (a) *INCLUSION OF NONCOVERED EMPLOYEES AS ELI-*  
 9                   *GIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY AC-*  
 10                  *COUNT STATEMENTS.*—Section 1143(a)(3) of the Social Se-  
 11                  *curity Act (42 U.S.C. 1320b–13(a)(3)) is amended—*

12                   (1) by striking “who” after “an individual” and  
 13                   inserting “who” before “has” in each of subpara-  
 14                   graphs (A) and (B);

15                   (2) by inserting “(i) who” after “(C)”; and

16                   (3) by inserting before the period the following:  
 17                   “, or (ii) with respect to whom the Commissioner has  
 18                   information that the pattern of wages or self-employ-  
 19                   ment income indicate a likelihood of noncovered em-  
 20                   ployment”.

21                   (b) *EXPLANATION IN SOCIAL SECURITY ACCOUNT*  
 22                   *STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENE-*  
 23                   *FITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON*  
 24                   *SOCIAL SECURITY BENEFITS.*—Section 1143(a)(2) of the



1 *Social Security Act (42 U.S.C. 1320b–13(a)(2)) is*  
2 *amended—*

3           (1) *in subparagraph (C), by striking “and” at*  
4 *the end;*

5           (2) *in subparagraph (D), by striking the period*  
6 *and inserting “; and”; and*

7           (3) *by adding at the end the following:*

8           “(E) *in the case of an eligible individual de-*  
9 *scribed in paragraph (3)(C)(ii), an explanation, in*  
10 *language calculated to be understood by the average*  
11 *eligible individual, of the operation of the provisions*  
12 *under sections 202(k)(5) and 215(a)(7) and an expla-*  
13 *nation of the maximum potential effects of such pro-*  
14 *visions on the eligible individual’s monthly retire-*  
15 *ment, survivor, and auxiliary benefits.”.*

16       (c) *TRUTH IN RETIREMENT DISCLOSURE TO GOVERN-*  
17 *MENTAL EMPLOYEES OF EFFECT OF NONCOVERED EM-*  
18 *PLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143*  
19 *of the Social Security Act (42 U.S.C. 1320b–13) is amend-*  
20 *ed further by adding at the end the following:*

21       “*Disclosure to Governmental Employees of Effect of*

22                               *Noncovered Employment*

23       “(d)(1) *In the case of any individual commencing em-*  
24 *ployment on or after January 1, 2005, in any agency or*  
25 *instrumentality of any State (or political subdivision there-*

1 of, as defined in section 218(b)(2)) in a position in which  
2 service performed by the individual does not constitute ‘em-  
3 ployment’ as defined in section 210, the head of the agency  
4 or instrumentality shall ensure that, prior to the date of  
5 the commencement of the individual’s employment in the  
6 position, the individual is provided a written notice setting  
7 forth an explanation, in language calculated to be under-  
8 stood by the average individual, of the maximum effect on  
9 computations of primary insurance amounts (under section  
10 215(a)(7)) and the effect on benefit amounts (under section  
11 202(k)(5)) of monthly periodic payments or benefits pay-  
12 able based on earnings derived in such service. Such notice  
13 shall be in a form which shall be prescribed by the Commis-  
14 sioner of Social Security.

15       “(2) The written notice provided to an individual pur-  
16 suant to paragraph (1) shall include a form which, upon  
17 completion and signature by the individual, would con-  
18 stitute certification by the individual of receipt of the no-  
19 tice. The agency or instrumentality providing the notice to  
20 the individual shall require that the form be completed and  
21 signed by the individual and submitted to the agency or  
22 instrumentality and to the pension, annuity, retirement, or  
23 similar fund or system established by the governmental en-  
24 tity involved responsible for paying the monthly periodic

1 *payments or benefits, before commencement of service with*  
 2 *the agency or instrumentality.”.*

3 (d) *EFFECTIVE DATES.*—*The amendments made by*  
 4 *subsections (a) and (b) of this section shall apply with re-*  
 5 *spect to social security account statements issued on or after*  
 6 *January 1, 2007.*

7 **SEC. 420. POST-1956 MILITARY WAGE CREDITS.**

8 (a) *PAYMENT TO THE SOCIAL SECURITY TRUST*  
 9 *FUNDS IN SATISFACTION OF OUTSTANDING OBLIGA-*  
 10 *TIONS.*—*Section 201 of the Social Security Act (42 U.S.C.*  
 11 *401) is amended by adding at the end the following:*

12 “(n) *Not later than July 1, 2004, the Secretary of the*  
 13 *Treasury shall transfer, from amounts in the general fund*  
 14 *of the Treasury that are not otherwise appropriated—*

15 “(1) *\$624,971,854 to the Federal Old-Age and*  
 16 *Survivors Insurance Trust Fund;*

17 “(2) *\$105,379,671 to the Federal Disability In-*  
 18 *surance Trust Fund; and*

19 “(3) *\$173,306,134 to the Federal Hospital Insur-*  
 20 *ance Trust Fund.*

21 *Amounts transferred in accordance with this subsection*  
 22 *shall be in satisfaction of certain outstanding obligations*  
 23 *for deemed wage credits for 2000 and 2001.”.*

24 (b) *CONFORMING AMENDMENTS.*—

1           (1) *REPEAL OF AUTHORITY FOR ANNUAL APPRO-*  
 2           *PRIATIONS AND RELATED ADJUSTMENTS TO COM-*  
 3           *PENSATE THE SOCIAL SECURITY TRUST FUND FOR*  
 4           *MILITARY WAGE CREDITS.*—Section 229 of the Social  
 5           *Security Act (42 U.S.C. 429) is amended—*

6                     (A) *by striking “(a)”*; and

7                     (B) *by striking subsection (b).*

8           (2) *AMENDMENT TO REFLECT THE TERMINATION*  
 9           *OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR*  
 10           *2001 BY SECTION 8134 OF PUBLIC LAW 107–117.*—Sec-  
 11           *tion 229(a)(2) of the Social Security Act (42 U.S.C.*  
 12           *429(a)(2)), as amended by paragraph (1), is amended*  
 13           *by inserting “and before 2002” after “1977”.*

14 **SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-**  
 15                     **WORK FOR CHILDHOOD DISABILITY BENE-**  
 16                     **FICIARIES.**

17           (a) *IN GENERAL.*—Section 202(d)(6)(B) of the Social  
 18           *Security Act (42 U.S.C. 402(d)(6)(B)) is amended—*

19                     (1) *by inserting “(i)” after “began”*; and

20                     (2) *by adding after “such disability,” the fol-*  
 21           *lowing: “or (ii) after the close of the 84th month fol-*  
 22           *lowing the month in which his most recent entitle-*  
 23           *ment to child’s insurance benefits terminated because*  
 24           *he ceased to be under such disability due to perform-*  
 25           *ance of substantial gainful activity.”.*

1           (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
 2 *section (a) shall be effective with respect to benefits payable*  
 3 *for months beginning with the 7th month that begins after*  
 4 *the date of enactment of this Act.*

## 5   ***Subtitle C—Technical Amendments***

### 6   ***SEC. 421. TECHNICAL CORRECTION RELATING TO RESPON-*** 7                                   ***SIBLE AGENCY HEAD.***

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

10                   (1) *by striking “Secretary” the first place it ap-*  
 11 *pears and inserting “Commissioner of Social Secu-*  
 12 *urity”;* and

13                   (2) *by striking “Secretary” each subsequent place*  
 14 *it appears and inserting “Commissioner”.*

### 15   ***SEC. 422. TECHNICAL CORRECTION RELATING TO RETIRE-*** 16                                   ***MENT BENEFITS OF MINISTERS.***

17           (a) *IN GENERAL.*—*Section 211(a)(7) of the Social Se-*  
 18 *curity Act (42 U.S.C. 411(a)(7)) is amended by inserting*  
 19 *“, but shall not include in any such net earnings from self-*  
 20 *employment the rental value of any parsonage or any par-*  
 21 *sonage allowance (whether or not excluded under section*  
 22 *107 of the Internal Revenue Code of 1986) provided after*  
 23 *the individual retires, or any other retirement benefit re-*  
 24 *ceived by such individual from a church plan (as defined*

1 *in section 414(e) of such Code) after the individual retires”*  
 2 *before the semicolon.*

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

6 **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMES-**  
 7 **TIC EMPLOYMENT.**

8 (a) *AMENDMENT TO INTERNAL REVENUE CODE.*—*Sec-*  
 9 *tion 3121(a)(7)(B) of the Internal Revenue Code of 1986*  
 10 *is amended by striking “described in subsection (g)(5)” and*  
 11 *inserting “on a farm operated for profit”.*

12 (b) *AMENDMENT TO SOCIAL SECURITY ACT.*—*Section*  
 13 *209(a)(6)(B) of the Social Security Act (42*  
 14 *U.S.C. 409(a)(6)(B)) is amended by striking “described in*  
 15 *section 210(f)(5)” and inserting “on a farm operated for*  
 16 *profit”.*

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

21 **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REF-**  
 22 **ERENCES.**

23 (a) *CORRECTION OF CITATION RESPECTING THE TAX*  
 24 *DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF*  
 25 *SELF-EMPLOYED INDIVIDUALS.*—*Section 211(a)(15) of the*

1 *Social Security Act (42 U.S.C. 411(a)(15)) is amended by*  
 2 *striking “section 162(m)” and inserting “section 162(l)”.*

3 (b) *ELIMINATION OF REFERENCE TO OBSOLETE 20-*  
 4 *DAY AGRICULTURAL WORK TEST.*—*Section 3102(a) of the*  
 5 *Internal Revenue Code of 1986 is amended by striking “and*  
 6 *the employee has not performed agricultural labor for the*  
 7 *employer on 20 days or more in the calendar year for cash*  
 8 *remuneration computed on a time basis”.*

9 **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EM-**  
 10 **PLOYMENT INCOME IN COMMUNITY PROP-**  
 11 **ERTY STATES.**

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

23 (b) *INTERNAL REVENUE CODE OF 1986 AMEND-*  
 24 *MENT.*—*Section 1402(a)(5)(A) of the Internal Revenue*  
 25 *Code of 1986 is amended by striking “all of the gross in-*

1 *come” and all that follows and inserting “the gross income*  
 2 *and deductions attributable to such trade or business shall*  
 3 *be treated as the gross income and deductions of the spouse*  
 4 *carrying on such trade or business or, if such trade or busi-*  
 5 *ness is jointly operated, treated as the gross income and*  
 6 *deductions of each spouse on the basis of their respective*  
 7 *distributive share of the gross income and deductions; and”.*

8 **SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RE-**  
 9 **TIREMENT AND SURVIVORS’ IMPROVEMENT**  
 10 **ACT OF 2001.**

11 *(a) QUORUM RULES.—Section 15(j)(7) of the Railroad*  
 12 *Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended*  
 13 *by striking “entire Board of Trustees” and inserting*  
 14 *“Trustees then holding office”.*

15 *(b) POWERS OF THE BOARD OF TRUSTEES.—Section*  
 16 *15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C.*  
 17 *231n(j)(4)) is amended to read as follows:*

18 *“(4) POWERS OF THE BOARD OF TRUSTEES.—*

19 *The Board of Trustees shall—*

20 *“(A) retain independent advisers to assist it*  
 21 *in the formulation and adoption of its invest-*  
 22 *ment guidelines;*

23 *“(B) invest assets of the Trust in a manner*  
 24 *consistent with such investment guidelines, either*



1           *directly or through the retention of independent*  
2           *investment managers;*

3           “(C) *adopt bylaws and other rules to govern*  
4           *its operations;*

5           “(D) *employ professional staff, and contract*  
6           *with outside advisers, including the Railroad Re-*  
7           *tirement Board, to provide legal, accounting, in-*  
8           *vestment advisory or management services (com-*  
9           *ensation for which may be on a fixed contract*  
10          *fee basis or on such other terms as are customary*  
11          *for such services), or other services necessary for*  
12          *the proper administration of the Trust;*

13          “(E) *sue and be sued and participate in*  
14          *legal proceedings, have and use a seal, conduct*  
15          *business, carry on operations, and exercise its*  
16          *powers within or without the District of Colum-*  
17          *bia, form, own, or participate in entities of any*  
18          *kind, enter into contracts and agreements nec-*  
19          *essary to carry out its business purposes, lend*  
20          *money for such purposes, and deal with property*  
21          *as security for the payment of funds so loaned,*  
22          *and possess and exercise any other powers ap-*  
23          *propriate to carry out the purposes of the Trust;*

24          “(F) *pay administrative expenses of the*  
25          *Trust from the assets of the Trust; and*

1           “(G) transfer money to the disbursing agent  
2           or as otherwise provided in section 7(b)(4), to  
3           pay benefits payable under this Act from the as-  
4           sets of the Trust.”.

5           (c) *STATE AND LOCAL TAXES.*—Section 15(j)(6) of the  
6 *Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6))* is  
7 amended to read as follows:

8           “(6) *STATE AND LOCAL TAXES.*—The Trust shall  
9           be exempt from any income, sales, use, property, or  
10          other similar tax or fee imposed or levied by a State,  
11          political subdivision, or local taxing authority. The  
12          district courts of the United States shall have original  
13          jurisdiction over a civil action brought by the Trust  
14          to enforce this subsection and may grant equitable or  
15          declaratory relief requested by the Trust.”.

16          (d) *FUNDING.*—Section 15(j)(8) of the *Railroad Re-*  
17 *tirement Act of 1974 (45 U.S.C. 231n(j)(8))* is repealed.

18          (e) *TRANSFERS.*—Section 15A(d)(2) of the *Railroad*  
19 *Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2))* is  
20 amended—

21                 (1) by inserting “or the *Railroad Retirement Ac-*  
22                 *count*” after “*National Railroad Retirement Invest-*  
23                 *ment Trust*” the second place it appears;

1           (2) by inserting “or the Railroad Retirement  
2           Board” after “National Railroad Retirement Invest-  
3           ment Trust” the third place it appears;

4           (3) by inserting “(either directly or through a  
5           commingled account consisting only of such obliga-  
6           tions)” after “United States” the first place it ap-  
7           pears; and

8           (4) in the third sentence, by inserting before the  
9           period at the end the following: “or to purchase such  
10          additional obligations”.

11          (f) CLERICAL AMENDMENTS.—Section 15(j)(5) of the  
12          Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is  
13          amended—

14               (1) in subparagraph (B), by striking “trustee’s”  
15               each place it appears and inserting “Trustee’s”;

16               (2) in subparagraph (C), by striking “trustee”  
17               and “trustees” each place it appears and inserting  
18               “Trustee” and “Trustees”, respectively; and

19               (3) in the matter preceding clause (i) of subpara-  
20               graph (D), by striking “trustee” and inserting  
21               “Trustee”.

1 ***Subtitle D—Amendments Related to***  
 2 ***Title XVI***

3 ***SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFRE-***  
 4 ***QUENT OR IRREGULAR INCOME AND CERTAIN***  
 5 ***INTEREST OR DIVIDEND INCOME.***

6 *(a) INFREQUENT OR IRREGULAR INCOME.—Section*  
 7 *1612(b)(3) of the Social Security Act (42 U.S.C.*  
 8 *1382a(b)(3)) is amended to read as follows—*

9 *“(3) in any calendar quarter, the first—*

10 *“(A) \$60 of unearned income, and*

11 *“(B) \$30 of earned income,*

12 *of such individual (and such spouse, if any) which,*  
 13 *as determined in accordance with criteria prescribed*  
 14 *by the Commissioner of Social Security, is received*  
 15 *too infrequently or irregularly to be included;”.*

16 *(b) INTEREST OR DIVIDEND INCOME.—Section*  
 17 *1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is*  
 18 *amended—*

19 *(1) in paragraph (21), by striking “and” at the*  
 20 *end;*

21 *(2) in paragraph (22), by striking the period*  
 22 *and inserting “; and”; and*

23 *(3) by adding at the end the following:*

24 *“(23) interest or dividend income from*  
 25 *resources—*

1           “(A) not excluded under section 1613(a), or  
 2           “(B) excluded pursuant to Federal law  
 3           other than section 1613(a).”.

4           (c) *EFFECTIVE DATE.*—The amendments made by this  
 5 section shall be effective with respect to benefits payable for  
 6 months in calendar quarters that begin more than 90 days  
 7 after the date of the enactment of this Act.

8 **SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERI-**  
 9           **ODS.**

10          (a) *UNDERPAYMENTS OF BENEFITS.*—Section  
 11 1613(a)(7) of the Social Security Act (42 U.S.C.  
 12 1382b(a)(7)) is amended—

13           (1) by striking “6” and inserting “9”; and

14           (2) by striking “(or to the first 9 months fol-  
 15 lowing such month with respect to any amount so re-  
 16 ceived during the period beginning October 1, 1987,  
 17 and ending September 30, 1989)”.

18          (b) *ADVANCEABLE TAX CREDITS.*—Section  
 19 1613(a)(11) of the Social Security Act (42 U.S.C.  
 20 1382b(a)(11)) is amended to read as follows:

21           “(11) for the 9-month period beginning after the  
 22 month in which received—

23           “(A) notwithstanding section 203 of the  
 24 Economic Growth and Tax Relief Reconciliation  
 25 Act of 2001, any refund of Federal income taxes

1           *made to such individual (or such spouse) under*  
2           *section 24 of the Internal Revenue Code of 1986*  
3           *(relating to child tax credit) by reason of sub-*  
4           *section (d) thereof; and*

5                     *“(B) any refund of Federal income taxes*  
6                     *made to such individual (or such spouse) by rea-*  
7                     *son of section 32 of the Internal Revenue Code*  
8                     *of 1986 (relating to earned income tax credit),*  
9                     *and any payment made to such individual (or*  
10                    *such spouse) by an employer under section 3507*  
11                    *of such Code (relating to advance payment of*  
12                    *earned income credit);”.*

13           *(c) EFFECTIVE DATE.—The amendments made by this*  
14           *section shall take effect on the date of enactment of this Act,*  
15           *and shall apply to amounts described in paragraph (7) of*  
16           *section 1613(a) of the Social Security Act and refunds of*  
17           *Federal income taxes described in paragraph (11) of such*  
18           *section, that are received by an eligible individual or eligi-*  
19           *ble spouse on or after such date.*

20           **SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE**  
21                                **APPLICATION OF THE STUDENT EARNED IN-**  
22                                **COME EXCLUSION.**

23                     *(a) IN GENERAL.—Section 1612(b)(1) of the Social Se-*  
24                     *curity Act (42 U.S.C. 1382a(b)(1)) is amended by striking*  
25                     *“a child who” and inserting “under the age of 22 and”.*

1           (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 2 *section shall be effective with respect to benefits payable for*  
 3 *months that begin on or after 1 year after the date of enact-*  
 4 *ment of this Act.*

5 **SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY AC-**  
 6 **COUNTING FOR NONRECURRING INCOME.**

7           (a) *IN GENERAL.*—*Section 1611(c) of the Social Secu-*  
 8 *rity Act (42 U.S.C. 1382(c)) is amended by adding at the*  
 9 *end the following:*

10           “(9)(A) *Notwithstanding paragraphs (1) and (2), any*  
 11 *nonrecurring income which is paid to an individual in the*  
 12 *first month of any period of eligibility shall be taken into*  
 13 *account in determining the amount of the benefit under this*  
 14 *title of such individual (and his eligible spouse, if any) only*  
 15 *for that month, and shall not be taken into account in deter-*  
 16 *mining the amount of the benefit for any other month.*

17           “(B) *For purposes of subparagraph (A), payments to*  
 18 *an individual in varying amounts from the same or similar*  
 19 *source for the same or similar purpose shall not be consid-*  
 20 *ered to be nonrecurring income.”.*

21           (b) *DELETION OF OBSOLETE MATERIAL.*—*Section*  
 22 *1611(c)(2)(B) of the Social Security Act (42 U.S.C.*  
 23 *1382(c)(2)(B)) is amended to read as follows:*

24           “(B) *in the case of the first month following a*  
 25 *period of ineligibility in which eligibility is restored*

1 after the first day of such month, bear the same ratio  
2 to the amount of the benefit which would have been  
3 payable to such individual if eligibility had been re-  
4 stored on the first day of such month as the number  
5 of days in such month including and following the  
6 date of restoration of eligibility bears to the total  
7 number of days in such month.”.

8 (c) *EFFECTIVE DATE.*—The amendments made by this  
9 section shall be effective with respect to benefits payable for  
10 months that begin on or after 1 year after the date of enact-  
11 ment of this Act.

12 **SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BEN-**  
13 **EFITS TO CHILDREN WHO ARE BORN OR WHO**  
14 **BECOME BLIND OR DISABLED AFTER THEIR**  
15 **MILITARY PARENTS ARE STATIONED OVER-**  
16 **SEAS.**

17 (a) *IN GENERAL.*—Section 1614(a)(1)(B)(ii) of the So-  
18 cial Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is  
19 amended—

20 (1) by inserting “and” after “citizen of the  
21 United States,”; and

22 (2) by striking “, and who,” and all that follows  
23 and inserting a period.

24 (b) *EFFECTIVE DATE.*—The amendments made by this  
25 section shall be effective with respect to benefits payable for



1 *months beginning after the date of enactment of this Act,*  
2 *but only on the basis of an application filed after such date.*

3 **SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME**  
4 **AND RESOURCES.**

5 (a) *EXCLUSION FROM INCOME OF GIFTS PROVIDED*  
6 *FOR TUITION AND OTHER EDUCATION-RELATED FEES.—*  
7 *Section 1612(b)(7) of the Social Security Act (42 U.S.C.*  
8 *1382a(b)(7)) is amended by striking “or fellowship received*  
9 *for use in paying” and inserting “fellowship, or gift (or*  
10 *portion of a gift) used to pay”.*

11 (b) *EXCLUSION FROM RESOURCES FOR 9 MONTHS OF*  
12 *GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PRO-*  
13 *VIDED FOR TUITION AND OTHER EDUCATION-RELATED*  
14 *FEES.—Section 1613(a) of the Social Security Act (42*  
15 *U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is*  
16 *amended—*

17 (1) *in paragraph (13), by striking “and” at the*  
18 *end;*

19 (2) *in paragraph (14), by striking the period*  
20 *and inserting “; and”; and*

21 (3) *by inserting after paragraph (14) the fol-*  
22 *lowing:*

23 “(15) *for the 9-month period beginning after the*  
24 *month in which received, any grant, scholarship, fel-*  
25 *lowship, or gift (or portion of a gift) used to pay the*

1       *cost of tuition and fees at any educational (including*  
 2       *technical or vocational education) institution.”.*

3       *(c) EFFECTIVE DATE.—The amendments made by this*  
 4       *section shall apply to benefits payable for months that begin*  
 5       *more than 90 days after the date of enactment of this Act.*

6       **SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE**  
 7                               **COMPENSATION.**

8       *(a) TREATMENT OF PAY AS RECEIVED WHEN*  
 9       *EARNED.—Section 1611(c) of the Social Security Act (42*  
 10       *U.S.C. 1382(c)), as amended by section 435(a), is amended*  
 11       *by adding at the end the following:*

12               *“(10) For purposes of this subsection, remuneration for*  
 13       *service performed as a member of a uniformed service may*  
 14       *be treated as received in the month in which it was earned,*  
 15       *if the Commissioner of Social Security determines that such*  
 16       *treatment would promote the economical and efficient ad-*  
 17       *ministration of the program authorized by this title.”.*

18       *(b) EFFECTIVE DATE.—The amendments made by this*  
 19       *section shall apply to benefits payable for months that begin*  
 20       *more than 90 days after the date of enactment of this Act.*

Attest:

*Secretary.*

108TH CONGRESS  
1ST SESSION

**H. R. 743**

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**AMENDMENT**