

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4070

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2002

Mr. SHAW (for himself, Mr. MATSUI, Mr. BECERRA, Mr. BRADY of Texas, Mr. HAYWORTH, Mr. HERGER, Mr. LEWIS of Kentucky, Mr. POMEROY, and Mr. RYAN of Wisconsin) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Social Security Program Protection Act of 2002”.

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

Sec. 1. Short title and table of contents.

#### TITLE I—PROTECTION OF BENEFICIARIES

##### Subtitle A—Representative Payees

- Sec. 101. Authority to reissue benefits misused by organizational representative payees.
- Sec. 102. Oversight of representative payees.
- Sec. 103. Disqualification from service as representative payee upon conviction of offenses resulting in imprisonment for more than 1 year and upon fugitive felon status.
- Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
- Sec. 105. Liability of representative payees for misused benefits.
- Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

##### Subtitle B—Enforcement

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

#### TITLE II—PROGRAM PROTECTIONS

- Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
- Sec. 202. Disqualification from eligibility for trial work period upon criminal, civil, or administrative finding of fraudulent concealment of work activity.
- Sec. 203. Denial of title II benefits to fugitive felons and persons fleeing prosecution.
- Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 205. Refusal to recognize certain individuals as claimant representatives.
- Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.

#### TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

- Sec. 301. Cap on attorney assessments.
- Sec. 302. Extension of attorney fee payment system to title XVI claims.
- Sec. 303. Effective date of title.

#### TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

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

- Sec. 401. Application of demonstration authority sunset date to new projects.
- Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

- Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
- Sec. 404. Availability of Federal and State work incentive services to additional individuals.
- Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

- Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
- Sec. 412. Nonpayment of benefits upon removal from the United States.
- Sec. 413. Reinstatement of certain reporting requirements.
- Sec. 414. Use of symbols, emblems, or names in reference to social security or medicare.
- Sec. 415. Clarification of definitions regarding certain survivor benefits.
- Sec. 416. Optional methods for computing net earnings from self-employment.
- Sec. 417. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Subtitle C—Technical Amendments

- Sec. 431. Technical correction relating to responsible agency head.
- Sec. 432. Technical correction relating to retirement benefits of ministers.
- Sec. 433. Technical corrections relating to domestic employment.
- Sec. 434. Technical corrections of outdated references.
- Sec. 435. Technical correction respecting self-employment income in community property States.

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

3       **Subtitle A—Representative Payees**

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

6           (a) TITLE II AMENDMENTS.—

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

1           “(i) that is not an individual (regardless of  
2           whether it is a ‘qualified organization’ within the  
3           meaning of paragraph (4)(B)); or

4           “(ii) is an individual who, for any month during  
5           a period when misuse occurs, serves 15 or more indi-  
6           viduals who are beneficiaries under this title, title  
7           VIII, title XVI, or any combination of such titles;  
8           misuses all or part of an individual’s benefit paid to such  
9           representative payee, the Commissioner of Social Security  
10          shall certify for payment to the beneficiary or the bene-  
11          ficiary’s alternative representative payee an amount equal  
12          to the amount of such benefit so misused. The provisions  
13          of this paragraph are subject to the limitations of para-  
14          graph (7)(B).”.

15           (2) MISUSE OF BENEFITS DEFINED.—Section  
16          205(j) of such Act (42 U.S.C. 405(j)) is amended  
17          by adding at the end the following new paragraph:

18          “(8) For purposes of this subsection, misuse of bene-  
19          fits by a representative payee occurs in any case in which  
20          the representative payee receives payment under this title  
21          for the use and benefit of another person and converts  
22          such payment, or any part thereof, to a use other than  
23          for the use and benefit of such other person. The Com-  
24          missioner of Social Security may prescribe by regulation

1 the meaning of the term ‘use and benefit’ for purposes  
2 of this paragraph.”.

3 (b) TITLE VIII AMENDMENTS.—

4 (1) REISSUANCE OF BENEFITS.—Section 807(i)  
5 of the Social Security Act (42 U.S.C. 1007(i)) is  
6 amended by inserting after the first sentence the fol-  
7 lowing new sentences: “In any case in which a rep-  
8 resentative payee—

9 “(A) that is not an individual; or

10 “(B) is an individual who, for any month  
11 during a period when misuse occurs, serves 15  
12 or more individuals who are beneficiaries under  
13 this title, title II, title XVI, or any combination  
14 of such titles;

15 misuses all or part of an individual’s benefit paid to  
16 such representative payee, the Commissioner of So-  
17 cial Security shall pay to the beneficiary or the bene-  
18 ficiary’s alternative representative payee an amount  
19 equal to the amount of such benefit so misused. The  
20 provisions of this paragraph are subject to the limi-  
21 tations of subsection (l)(2).”.

22 (2) MISUSE OF BENEFITS DEFINED.—Section  
23 807 of such Act (42 U.S.C. 1007) is amended by  
24 adding at the end the following new subsection:

1       “(j) MISUSE OF BENEFITS.—For purposes of this  
2 title, misuse of benefits by a representative payee occurs  
3 in any case in which the representative payee receives pay-  
4 ment under this title for the use and benefit of another  
5 person and converts such payment, or any part thereof,  
6 to a use other than for the use and benefit of such other  
7 person. The Commissioner of Social Security may pre-  
8 scribe by regulation the meaning of the term ‘use and ben-  
9 efit’ for purposes of this subsection.”.

10           (3) TECHNICAL AMENDMENT.—Section 807(a)  
11 of such Act (42 U.S.C. 1007(a)) is amended, in the  
12 first sentence, by inserting “use and” before “ben-  
13 efit”.

14       (c) TITLE XVI AMENDMENTS.—

15           (1) REISSUANCE OF BENEFITS.—Section  
16 1631(a)(2)(E) of such Act (42  
17 U.S.C. 1383(a)(2)(E)) is amended by inserting  
18 after the first sentence the following new sentences:

19       “‘In any case in which a representative payee—

20           “(i) that is not an individual (regardless of  
21 whether it is a ‘qualified organization’ within the  
22 meaning of subparagraph (D)(ii)); or

23           “(ii) is an individual who, for any month during  
24 a period when misuse occurs, serves 15 or more indi-

1       viduals who are beneficiaries under this title, title II,  
2       title VIII, or any combination of such titles;  
3       misuses all or part of an individual's benefit paid to the  
4       representative payee, the Commissioner of Social Security  
5       shall make payment to the beneficiary or the beneficiary's  
6       alternative representative payee of an amount equal to the  
7       amount of the benefit so misused. The provisions of this  
8       subparagraph are subject to the limitations of subpara-  
9       graph (H)(ii).”.

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

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

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

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

19               “(14) for the 9-month period beginning after  
20       the month in which received, any amount received by  
21       such individual (or spouse) or any other person  
22       whose income is deemed to be included in such indi-  
23       vidual's (or spouse's) income for purposes of this  
24       title as restitution for benefits under this title, title  
25       II, or title VIII that a representative payee of such

1 individual (or spouse) or such other person under  
2 section 205(j), 807, or 1631(a)(2) has misused.”.

3 (3) MISUSE OF BENEFITS DEFINED.—Section  
4 1631(a)(2)(A) of such Act (42  
5 U.S.C. 1383(a)(2)(A)) is amended by adding at the  
6 end the following new clause:

7 “(iv) For purposes of this paragraph, misuse of bene-  
8 fits by a representative payee occurs in any case in which  
9 the representative payee receives payment under this title  
10 for the use and benefit of another person and converts  
11 such payment, or any part thereof, to a use other than  
12 for the use and benefit of such other person. The Com-  
13 missioner of Social Security may prescribe by regulation  
14 the meaning of the term ‘use and benefit’ for purposes  
15 of this clause.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to any case of benefit misuse by  
18 a representative payee with respect to which the Commis-  
19 sioner makes the determination of misuse on or after Jan-  
20 uary 1, 1995.

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

22 (a) CERTIFICATION OF BONDING AND LICENSING  
23 REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZA-  
24 TIONAL REPRESENTATIVE PAYEES.—



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

4           (A) in paragraph (2)(C)(v), by striking “a  
5 community-based nonprofit social service agen-  
6 cy licensed or bonded by the State” in sub-  
7 clause (I) and inserting “a certified community-  
8 based nonprofit social service agency (as de-  
9 fined in paragraph (9))”;

10           (B) in paragraph (3)(F), by striking “com-  
11 munity-based nonprofit social service agencies”  
12 and inserting “certified community-based non-  
13 profit social service agencies (as defined in  
14 paragraph (9))”;

15           (C) in paragraph (4)(B), by striking “any  
16 community-based nonprofit social service agen-  
17 cy which is bonded or licensed in each State in  
18 which it serves as a representative payee” and  
19 inserting “any certified community-based non-  
20 profit social service agency (as defined in para-  
21 graph (9))”; and

22           (D) by adding after paragraph (8) (as  
23 added by section 201(a)(2) of this Act) the fol-  
24 lowing new paragraph:

1           “(9) For purposes of this subsection, the term ‘cer-  
2   tified community-based nonprofit social service agency’  
3   means a community based nonprofit social service agency  
4   which is in compliance with requirements, under regula-  
5   tions which shall be prescribed by the Commissioner, for  
6   annual certification to the Commissioner that it is bonded  
7   in accordance with requirements specified by the Commis-  
8   sioner and that it is licensed in each State in which it  
9   serves as a representative payee (if licensing is available  
10  in such State) in accordance with requirements specified  
11  by the Commissioner. Any such annual certification shall  
12  include a copy of any independent audit on such agency  
13  which may have been performed since the previous certifi-  
14  cation.”

15           (2)   TITLE   XVI    AMENDMENTS.—Section  
16    1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is  
17    amended—

18           (A) in subparagraph (B)(vii), by striking  
19    “a community-based nonprofit social service  
20    agency licensed or bonded by the State” in sub-  
21    clause (I) and inserting “a certified community-  
22    based nonprofit social service agency (as de-  
23    fined in subparagraph (I))”;

24           (B) in subparagraph (D)(ii)—

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

8 (ii) by redesignating items (aa) and  
9 (bb) as subclauses (I) and (II), respectively  
10 (and adjusting the margination accord-  
11 ingly); and

12 (iii) by striking “subclause (II)(bb)”  
13 and inserting “subclause (II)”; and

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

16 “(I) For purposes of this paragraph, the term ‘cer-  
17 tified community-based nonprofit social service agency’  
18 means a community based nonprofit social service agency  
19 which is in compliance with requirements, under regula-  
20 tions which shall be prescribed by the Commissioner, for  
21 annual certification to the Commissioner that it is bonded  
22 in accordance with requirements specified by the Commis-  
23 sioner and that it is licensed in each State in which it  
24 serves as a representative payee (if licensing is available  
25 in the State) in accordance with requirements specified by

1 the Commissioner. Any such annual certification shall in-  
2 clude a copy of any independent audit on the agency which  
3 may have been performed since the previous certifi-  
4 cation.”.

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

9 (b) PERIODIC ONSITE REVIEW.—

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

13 “(6)(A) The Commissioner of Social Security shall  
14 provide for the periodic onsite review of any person or  
15 agency that receives the benefits payable under this title  
16 (alone or in combination with benefits payable under title  
17 VIII or title XVI) to another individual pursuant to the  
18 appointment of such person or agency as a representative  
19 payee under this subsection, section 807, or section  
20 1631(a)(2) in any case in which—

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

24 “(ii) the representative payee is a certified com-  
25 munity-based nonprofit social service agency (as de-

1 fined in paragraph (9) of this subsection or section  
2 1631(a)(2)(I); or

3 “(iii) the representative payee is an agency  
4 (other than an agency described in clause (ii)) that  
5 serves in that capacity with respect to 50 or more  
6 such individuals.

7 “(B) Within 120 days after the end of each fiscal  
8 year, the Commissioner shall submit to the Committee on  
9 Ways and Means of the House of Representatives and the  
10 Committee on Finance of the Senate a report on the re-  
11 sults of periodic onsite reviews conducted during the fiscal  
12 year pursuant to subparagraph (A). Each such report  
13 shall describe in detail all problems identified in such re-  
14 views and any corrective action taken or planned to be  
15 taken to correct such problems, and shall include—

16 “(i) the number of such reviews,

17 “(ii) the results of such reviews,

18 “(iii) the number of cases in which the rep-  
19 resentative payee was changed and why,

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

1           “(v) the number of cases discovered in which  
2           there was a misuse of funds,

3           “(vi) how any such cases of misuse of funds  
4           were dealt with by the Commissioner,

5           “(vii) the final disposition of such cases of mis-  
6           use of funds, including any criminal penalties im-  
7           posed, and

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

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

14           “(k)(1) PERIODIC ONSITE REVIEW.—The Commis-  
15           sioner of Social Security may provide for the periodic on-  
16           site review of any person or agency that receives the bene-  
17           fits payable under this title (alone or in combination with  
18           benefits payable under title II or title XVI) to another in-  
19           dividual pursuant to the appointment of such person or  
20           agency as a representative payee under this section, sec-  
21           tion 205(j), or section 1631(a)(2) in any case in which—

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

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

4           “(2) Within 120 days after the end of each fiscal  
5           year, the Commissioner shall submit to the Committee on  
6           Ways and Means of the House of Representatives and the  
7           Committee on Finance of the Senate a report on the re-  
8           sults of periodic onsite reviews conducted during the fiscal  
9           year pursuant to paragraph (1). Each such report shall  
10          describe in detail all problems identified in such reviews  
11          and any corrective action taken or planned to be taken  
12          to correct such problems, and shall include—

13                 “(A) the number of such reviews,

14                 “(B) the results of such reviews,

15                 “(C) the number of cases in which the rep-  
16          resentative payee was changed and why,

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

22                 “(E) the number of cases discovered in which  
23          there was a misuse of funds,

24                 “(F) how any such cases of misuse of funds  
25          were dealt with by the Commissioner,

1           “(G) the final disposition of such cases of mis-  
2           use of funds, including any criminal penalties im-  
3           posed, and

4           “(H) such other information as the Commis-  
5           sioner deems appropriate.”.

6           (3)     TITLE     XVI     AMENDMENT.—Section  
7           1631(a)(2)(G)     of     such     Act     (42  
8           U.S.C. 1383(a)(2)(G)) is amended to read as fol-  
9           lows:

10          “(G)(i) The Commissioner of Social Security shall  
11          provide for the periodic onsite review of any person or  
12          agency that receives the benefits payable under this title  
13          (alone or in combination with benefits payable under title  
14          II or title VIII) to another individual pursuant to the ap-  
15          pointment of the person or agency as a representative  
16          payee under this paragraph, section 205(j), or section 807  
17          in any case in which—

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

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



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

5           “(ii) Within 120 days after the end of each fiscal  
6           year, the Commissioner shall submit to the Committee on  
7           Ways and Means of the House of Representatives and the  
8           Committee on Finance of the Senate a report on the re-  
9           sults of periodic onsite reviews conducted during the fiscal  
10          year pursuant to clause (i). Each such report shall de-  
11          scribe in detail all problems identified in the reviews and  
12          any corrective action taken or planned to be taken to cor-  
13          rect the problems, and shall include—

14                 “(I) the number of the reviews,

15                 “(II) the results of such reviews,

16                 “(III) the number of cases in which the rep-  
17          representative payee was changed and why,

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

23                 “(V) the number of cases discovered in which  
24          there was a misuse of funds,

1           “(VI) how any such cases of misuse of funds  
2           were dealt with by the Commissioner,

3           “(VII) the final disposition of such cases of  
4           misuse of funds, including any criminal penalties im-  
5           posed, and

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

8 **SEC. 103. DISQUALIFICATION FROM SERVICE AS REP-**  
9           **RESENTATIVE PAYEE UPON CONVICTION OF**  
10           **OFFENSES RESULTING IN IMPRISONMENT**  
11           **FOR MORE THAN 1 YEAR AND UPON FUGI-**  
12           **TIVE FELON STATUS.**

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

16           (1) in subparagraph (B)(i)—

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

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

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

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

1 under Federal or State law which resulted in impris-  
2 onment for more than 1 year,

3 “(V) obtain information concerning whether  
4 such person is a fugitive felon as described in section  
5 1611(e)(4), and”.

6 (2) in subparagraph (C)(i)(II), by striking  
7 “subparagraph (B)(i)(IV),” and inserting “subpara-  
8 graph (B)(i)(VI)” and striking “section  
9 1631(a)(2)(B)(ii)(IV)” and inserting “section  
10 1631(a)(2)(B)(ii)(VI)”;

11 (3) in subparagraph (C)(i)—

12 (A) by striking “or” at the end of sub-  
13 clause (II);

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

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

18 “(IV) such person has previously been convicted  
19 as described in subparagraph (B)(i)(IV), unless the  
20 Commissioner determines that such certification  
21 would be appropriate notwithstanding such convic-  
22 tion, or

23 “(V) such person is in fugitive felon status as  
24 described in section 1611(e)(4).”.

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

3 (1) in subsection (b)(2)—

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

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

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

10 “(D) obtain information concerning wheth-  
11 er such person has been convicted of any other  
12 offense under a law of the United States or of  
13 any State of the United States which resulted  
14 in imprisonment for more than 1 year;

15 “(E) obtain information concerning wheth-  
16 er such person is a fugitive felon as described  
17 in section 1611(e)(4); and”; and

18 (2) in subsection (d)(1)—

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

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

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

1           “(D) such person has previously been con-  
2           victed as described in subsection (b)(2)(D), un-  
3           less the Commissioner determines that such  
4           payment would be appropriate notwithstanding  
5           such conviction; or

6           “(E) such person is in fugitive felon status  
7           as described in section 1611(e)(4).”.

8           (c)       TITLE       XVI       AMENDMENTS.—Section  
9           1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is  
10          amended—

11               (1) in clause (ii)—

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

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

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

18                   “(IV) obtain information concerning whether  
19                   the 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  
23                   such person is a fugitive felon as described in section  
24                   1611(e)(4); and”;

25               (2) in clause (iii)(II)—

1 (A) by striking “clause (ii)(IV)” and in-  
2 serting “clause (ii)(VI)”; and

3 (B) by striking “section  
4 205(j)(2)(B)(i)(IV)” and inserting “section  
5 205(j)(2)(B)(i)(VI)”; and

6 (3) in clause (iii)—

7 (A) by striking “or” at the end of sub-  
8 clause (II);

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

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

13 “(IV) if the person has previously been con-  
14 victed as described in clause (ii)(IV) of this subpara-  
15 graph, unless the Commissioner determines that the  
16 payment would be appropriate notwithstanding the  
17 conviction; or

18 “(V) such person is in fugitive felon status as  
19 described in section 1611(e)(4).”.

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on the first day of the thir-  
22 teenth month beginning after the date of the enactment  
23 of this Act.

1 **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE**  
2 **BY 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  
7 inserting “Except as provided in the next sentence,  
8 a”; and

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

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

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

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

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

12          (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to any month involving benefit mis-  
14 use by a representative payee in any case with respect to  
15 which the Commissioner makes the determination of mis-  
16 use after December 31, 2002.

17 **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR**  
18 **MISUSED BENEFITS.**

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

22               (1) by redesignating paragraphs (7), (8), and  
23               (9) 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 new paragraph:

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

24          “(B) The total of the amount certified for payment  
25          to such individual or such individual’s alternative rep-

1 representative payee under subparagraph (A) of this para-  
2 graph and the amount certified for payment under para-  
3 graph (5) may not exceed the total benefit amount mis-  
4 used by the representative payee with respect to such indi-  
5 vidual.”.

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

9 “(1) LIABILITY FOR MISUSED AMOUNTS.—

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

1 equal to the recovered amount to such individual or  
2 such individual's alternative representative payee.

3 “(2) LIMITATION.—The total of the amount  
4 paid to such individual or such individual's alter-  
5 native representative payee under paragraph (1) of  
6 this subsection and the amount paid under sub-  
7 section (i) may not exceed the total benefit amount  
8 misused by the representative payee with respect to  
9 such individual.”.

10 (c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)  
11 of such Act (42 U.S.C. 1383(a)(2)) (as amended by sec-  
12 tion 102 of this Act) is amended further—

13 (1) in subparagraph (G)(i)(II), by striking  
14 “paragraph (9)” and inserting “paragraph (10)”;  
15 and

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

18 “(H)(i) If the Commissioner of Social Security or a  
19 court of competent jurisdiction determines that a rep-  
20 resentative payee that is not a Federal, State, or local gov-  
21 ernment agency has misused all or part of an individual's  
22 benefit that was paid to the representative payee under  
23 this paragraph, the representative payee shall be liable for  
24 the amount misused, and the amount (to the extent not  
25 repaid by the representative payee) shall be treated as an

1 overpayment of benefits under this title to the representa-  
2 tive payee for all purposes of this Act and related laws  
3 pertaining to the recovery of the overpayments. Subject  
4 to clause (ii), upon recovering all or any part of the  
5 amount, the Commissioner shall make payment of an  
6 amount equal to the recovered amount to such individual  
7 or such individual's alternative representative payee.

8       “(ii) The total of the amount paid to such individual  
9 or such individual's alternative representative payee under  
10 clause (i) of this subparagraph and the amount paid under  
11 subparagraph (E) may not exceed the total benefit amount  
12 misused by the representative payee with respect to such  
13 individual.”.

14       (d) **EFFECTIVE DATE.**—The amendments made by  
15 this section shall apply to benefit misuse by a representa-  
16 tive payee in any case with respect to which the Commis-  
17 sioner makes the determination of misuse after December  
18 31, 2002.

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

22       (a) **TITLE II AMENDMENTS.**—Section 205(j)(3) of  
23 the Social Security Act (42 U.S.C. 405(j)(3)) is  
24 amended—

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

3           (2) by inserting after subparagraph (D) the fol-  
4           lowing new subparagraph:

5           “(E) In any case in which the person described in  
6           subparagraph (A) or (D) receiving payments on behalf of  
7           another fails to submit a report required by the Commis-  
8           sioner of Social Security under subparagraph (A) or (D),  
9           the Commissioner may, after furnishing notice to such  
10          person and the individual entitled to such payment, re-  
11          quire that such person appear in person at a field office  
12          of the Social Security Administration serving the area in  
13          which the individual resides in order to receive such pay-  
14          ments.”.

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

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

19                 (2) by inserting after paragraph (2) the fol-  
20                 lowing new paragraph:

21                 “(3) AUTHORITY TO REDIRECT DELIVERY OF  
22                 BENEFIT PAYMENTS WHEN A REPRESENTATIVE  
23                 PAYEE FAILS TO PROVIDE REQUIRED ACCOUNT-  
24                 ING.—In any case in which the person described in  
25                 paragraph (1) or (2) receiving benefit payments on

1       behalf of a qualified individual fails to submit a re-  
2       port required by the Commissioner of Social Secu-  
3       rity under paragraph (1) or (2), the Commissioner  
4       may, after furnishing notice to such person and the  
5       qualified individual, require that such person appear  
6       in person at a United States Government facility  
7       designated by the Social Security Administration as  
8       serving the area in which the qualified individual re-  
9       sides in order to receive such benefit payments.”.

10       (c)       TITLE       XVI       AMENDMENT.—Section  
11 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is  
12 amended by adding at the end the following new clause:

13       “(v) In any case in which the person described in  
14 clause (i) or (iv) receiving payments on behalf of another  
15 fails to submit a report required by the Commissioner of  
16 Social Security under clause (i) or (iv), the Commissioner  
17 may, after furnishing notice to the person and the indi-  
18 vidual entitled to the payment, require that such person  
19 appear in person at a field office of the Social Security  
20 Administration serving the area in which the individual  
21 resides in order to receive such payments.”.

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

1                   **Subtitle B—Enforcement**

2   **SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**  
3                   **SPECT TO WRONGFUL CONVERSIONS BY REP-**  
4                   **RESENTATIVE PAYEES.**

5           (a) IN GENERAL.—Section 1129(a) of the Social Se-  
6   curity Act (42 U.S.C. 1320a–8) is amended by adding at  
7   the end the following new paragraph:

8           “(3) Any person (including an organization, agency,  
9   or other entity) who, having received, while acting in the  
10   capacity of a representative payee pursuant to section  
11   205(j), 807, or 1631(a)(2), a payment under title II, VIII,  
12   or XVI for the use and benefit of another individual, con-  
13   verts such payment, or any part thereof, to a use that  
14   such person knows or should know is other than for the  
15   use and benefit of such other individual shall be subject  
16   to, in addition to any other penalties that may be pre-  
17   scribed by law, a civil money penalty of not more than  
18   \$5,000 for each such conversion. Such person shall also  
19   be subject to an assessment, in lieu of damages sustained  
20   by the United States resulting from the conversion, of not  
21   more than twice the amount of any payments so con-  
22   verted.”.

23           (b) EFFECTIVE DATE.—The amendments made by  
24   this section shall apply with respect to violations com-  
25   mitted after the date of the enactment of this Act.

# TITLE II—PROGRAM PROTECTIONS

1  
2  
3 **SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RE-**  
4 **SPECT TO KNOWING WITHHOLDING OF MATE-**  
5 **RIAL FACTS.**

6 (a) TREATMENT OF WITHHOLDING OF MATERIAL  
7 FACTS.—

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

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

13 (B) by striking “makes” in the first sen-  
14 tence and all that follows through “shall be sub-  
15 ject to” and inserting the following:

16 “(A) makes, or causes to be made, a statement  
17 or representation of a material fact, for use in deter-  
18 mining any initial or continuing right to or the  
19 amount of monthly insurance benefits under title II  
20 or benefits or payments under title VIII or XVI,  
21 that the person knows or should know is false or  
22 misleading,

23 “(B) makes such a statement or representation  
24 for such use with knowing disregard for the truth,  
25 or



1           “(C) omits from a statement or representation  
2           for such use, or otherwise withholds disclosure of, a  
3           fact which the individual knows or should know is  
4           material to the determination of any initial or con-  
5           tinuing right to or the amount of monthly insurance  
6           benefits under title II or benefits or payments under  
7           title VIII or XVI, if the individual knows, or should  
8           know, that the statement or representation with  
9           such omission is false or misleading or that the with-  
10          holding of such disclosure is misleading,  
11 shall be subject to”;

12                   (C) by inserting “or each receipt of such  
13           benefits or payments while withholding disclo-  
14           sure of such fact” after “each such statement  
15           or representation” in the first sentence;

16                   (D) by inserting “or because of such with-  
17           holding of disclosure of a material fact” after  
18           “because of such statement or representation”  
19           in the second sentence; and

20                   (E) by inserting “or such a withholding of  
21           disclosure” after “such a statement or rep-  
22           resentation” in the second sentence.

23           (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-  
24          ING PENALTIES.—Section 1129A(a) of such Act (42

1 U.S.C. 1320a–8a(a)) is amended in the first  
2 sentence—

3 (A) by striking “who” and inserting  
4 “who—”; and

5 (B) by striking “makes” and all that fol-  
6 lows through “shall be subject to,” and insert-  
7 ing the following:

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

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

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

1 such omission is false or misleading or that the with-  
2 holding of such disclosure is misleading,  
3 shall be subject to,”.

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

10 (c) CONFORMING AMENDMENTS.—

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

14 (2) Section 1129(e)(1) of such Act (42  
15 U.S.C. 1320a–8(e)(1)) is amended by striking “and  
16 representations” and inserting “, representations, or  
17 actions”.

18 (3) Section 1129(e)(1)(A) of such Act (42  
19 U.S.C. 1320a–8(e)(1)(A)) is amended by striking  
20 “statement or representation referred to in sub-  
21 section (a) was made” and inserting “violation oc-  
22 curred”.

23 (d) EFFECTIVE DATES.—The amendments made by  
24 this section shall apply with respect to violations com-  
25 mitted after the date of the enactment of this Act.

1 **SEC. 202. DISQUALIFICATION FROM ELIGIBILITY FOR**  
2 **TRIAL WORK PERIOD UPON CRIMINAL, CIVIL,**  
3 **OR ADMINISTRATIVE FINDING OF FRAUDU-**  
4 **LENT CONCEALMENT OF WORK ACTIVITY.**

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

8 “(5) Effective upon the date of any final determina-  
9 tion (after any applicable notice and opportunity for hear-  
10 ing) by a Federal court or by a Federal agency (including  
11 any final determination in a proceeding to determine  
12 whether to impose a civil monetary penalty under this  
13 Act), that an individual has fraudulently concealed work  
14 activity from the Commissioner of Social Security—

15 “(A) any ongoing period of trial work for such  
16 individual under this subsection shall end with the  
17 end of the preceding month,

18 “(B) such individual shall have no period of  
19 trial work thereafter in connection with any entitle-  
20 ment of such individual under section 223, 202(d),  
21 202(e), or 202(f),

22 “(C) such individual shall not be eligible for any  
23 subsequent waiver of adjustment of benefits or other  
24 form of recovery applicable in connection with any  
25 payment to such individual of more than the correct

1 amount under section 223, 202(d), 202(e), or 202(f)  
2 by reason of such concealment, and

3 “(D) amounts otherwise due under this title as  
4 restitution, penalties, assessments, fines, or other re-  
5 payments shall in all cases be in addition to any  
6 amounts for which such individual is liable as over-  
7 payments by reason of such concealment.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply with respect to work activity per-  
10 formed after the date of the enactment of this Act.

11 **SEC. 203. DENIAL OF TITLE II BENEFITS TO FUGITIVE FEL-**  
12 **ONS AND PERSONS FLEEING PROSECUTION.**

13 (a) IN GENERAL.—Section 202(x) of the Social Secu-  
14 rity Act (42 U.S.C. 402(x)) is amended—

15 (1) in the heading, by striking “Prisoners” and  
16 all that follows and inserting the following: “Pris-  
17 oners, Certain Other Inmates of Publicly Funded In-  
18 stitutions, and Fugitives”;

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

21 (3) in paragraph (1)(A)(iii), by striking the pe-  
22 riod at the end and inserting a comma;

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

1           “(iv) is fleeing to avoid prosecution, or custody  
2           or confinement after conviction, under the laws of  
3           the place from which the person flees, for an offense  
4           punishable by imprisonment for more than 1 year  
5           under the laws of the place from which the person  
6           flees, or

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

9 In the case of an individual from whom such monthly ben-  
10 efits have been withheld pursuant to clause (iv), the Com-  
11 missioner may, for good cause shown, pay such withheld  
12 benefits to the individual.”; and

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

15           “(C) Notwithstanding the provisions of section 552a  
16 of title 5, United States Code, or any other provision of  
17 Federal or State law (other than section 6103 of the Inter-  
18 nal Revenue Code of 1986 and section 1106(e) of this  
19 Act), the Commissioner shall furnish any Federal, State,  
20 or local law enforcement officer, upon the written request  
21 of the officer, with the current address, Social Security  
22 number, and photograph (if applicable) of any beneficiary  
23 under this title, if the officer furnishes the Commissioner  
24 with the name of the beneficiary, and other identifying in-  
25 formation as reasonably required by the Commissioner to

1 establish the unique identity of the beneficiary, and noti-  
2 fies the Commissioner that—

3 “(i) the beneficiary—

4 “(I) is described in clause (iv) or (v) of  
5 paragraph (1)(A); and

6 “(II) has information that is necessary for  
7 the officer to conduct the officer’s official du-  
8 ties; and

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

11 **SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PRO-**  
12 **VIDE FOR A FEE A PRODUCT OR SERVICE**  
13 **AVAILABLE WITHOUT CHARGE FROM THE SO-**  
14 **CIAL SECURITY ADMINISTRATION.**

15 (a) IN GENERAL.—Section 1140 of the Social Secu-  
16 rity Act (42 U.S.C. 1320b–10) is amended—

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

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

1           “(i) explains that the product or service is avail-  
2           able free of charge from the Social Security Admin-  
3           istration, and

4           “(ii) complies with standards prescribed by the  
5           Commissioner of Social Security respecting content  
6           of such notice and its placement, visibility, and leg-  
7           ibility.

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

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

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

15          (2) in the heading, by striking “PROHIBITION  
16          OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN  
17          REFERENCE” and inserting “PROHIBITIONS RELAT-  
18          ING TO REFERENCES”.

19       (b) EFFECTIVE DATE.—The amendments made by this  
20       section shall apply to offers of assistance made after the  
21       sixth month ending after the Commissioner of Social Secu-  
22       rity promulgates final regulations prescribing the stand-  
23       ards applicable to the notice required to be provided in  
24       connection with such offer. The Commissioner shall pro-



1 mulgate such final regulations within one year after the  
2 date of the enactment of this Act.

3 **SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS**

4 **AS CLAIMANT REPRESENTATIVES.**

5 Section 206(a)(1) of the Social Security Act (42  
6 U.S.C. 406(a)(1)) is amended by inserting after the sec-  
7 ond sentence the following: “Notwithstanding the pre-  
8 ceding sentences, the Commissioner (A) may refuse to rec-  
9 ognize as a representative, and may disqualify a represent-  
10 ative already recognized, any attorney who has been dis-  
11 barred or suspended from any court or bar to which he  
12 or she was previously admitted to practice or who has been  
13 disqualified from participating in or appearing before any  
14 Federal program or agency, and (B) may refuse to recog-  
15 nize, and may disqualify, as a non-attorney representative  
16 any attorney who has been disbarred or suspended from  
17 any court or bar to which he or she was previously admit-  
18 ted to practice. A representative who has been disqualified  
19 or suspended pursuant to this section from appearing be-  
20 fore the Social Security Administration as a result of col-  
21 lecting or receiving a fee in excess of the amount author-  
22 ized shall be barred from appearing before the Social Se-  
23 curity Administration as a representative until full restitue-  
24 tion is made to the claimant and, thereafter, may be con-



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

5 **TITLE III—ATTORNEY FEE PAY-**  
 6 **MENT SYSTEM IMPROVE-**  
 7 **MENTS**

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

9 Section 206(d)(2)(A) of the Social Security Act (42  
 10 U.S.C. 406(d)(2)(A)) is amended by inserting “, except  
 11 that the maximum amount of the assessment may not ex-  
 12 ceed \$100” after “subparagraph (B)”.

13 **SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**  
 14 **TO TITLE XVI CLAIMS.**

15 Section 1631(d)(2) of the Social Security Act (42  
 16 U.S.C. 1383(d)(2)) is amended—

17 (1) in the matter in subparagraph (A) pre-  
 18 ceding clause (i)—

19 (A) by striking “section 206(a)” and in-  
 20 serting “section 206”;

21 (B) by striking “(other than paragraph (4)  
 22 thereof)” and inserting “(other than sub-  
 23 sections (a)(4) and (d) thereof); and

24 (C) by striking “paragraph (2) thereof”  
 25 and inserting “such section”;

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

5           (3) by striking subparagraph (A)(ii) and insert-  
6           ing the following:

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

11          “(iii) by substituting, in subsection (a)(2)(C)(i),  
12          the phrase ‘under title II’ for the phrase ‘under title  
13          XVI’;

14          “(iv) by substituting, in subsection (b)(1)(A),  
15          the phrase ‘pay the amount of such fee’ for the  
16          phrase ‘certify the amount of such fee for payment’  
17          and by striking, in subsection (b)(1)(A), the phrase  
18          ‘or certified for payment’; and

19          “(v) by substituting, in subsection (b)(1)(B)(ii),  
20          the phrase ‘deemed to be such amounts as deter-  
21          mined before any applicable reduction under section  
22          1631(g), and reduced by the amount of any reduc-  
23          tion in benefits under this title or title II made pur-  
24          suant to section 1127(a)’ for the phrase ‘determined

1 before any applicable reduction under section  
2 1127(a))’.”; and

3 (4) by striking subparagraph (B) and inserting  
4 the following new subparagraphs:

5 “(B) Subject to subparagraph (C), if the claimant is  
6 determined to be entitled to past-due benefits under this  
7 title and the person representing the claimant is an attor-  
8 ney, the Commissioner of Social Security shall pay out of  
9 such past-due benefits (as determined before any applica-  
10 ble reduction under section 1631(g), and reduced by the  
11 amount of any reduction in benefits under this title or title  
12 II made pursuant to section 1127(a)) to such attorney an  
13 amount equal to so much of the maximum fee as does  
14 not exceed 25 percent of such past-due benefits (as so de-  
15 termined and so reduced).

16 “(C)(i) Whenever a fee for services is required to be  
17 paid to an attorney from a claimant’s past-due benefits  
18 pursuant to subparagraph (B), the Commissioner shall  
19 impose on the attorney an assessment calculated in ac-  
20 cordance with clause (ii).

21 “(ii)(I) The amount of an assessment under clause  
22 (i) shall be equal to the product obtained by multiplying  
23 the amount of the representative’s fee that would be re-  
24 quired to be paid by subparagraph (B) before the applica-  
25 tion of this subparagraph, by the percentage specified in

1 subclause (II), except that the maximum amount of the  
2 assessment may not exceed \$100.

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

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

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

18 “(v) Assessments on attorneys collected under this  
19 subparagraph shall be deposited in the Treasury in a sepa-  
20 rate fund created for this purpose.

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

1 trative expenses in carrying out this title and related  
2 laws.”.

3 **SEC. 303. EFFECTIVE DATE OF TITLE.**

4 The amendments made by this title shall apply with  
5 respect to fees for representation of claimants which are  
6 first required to be certified or paid under section 206 or  
7 1631(d)(2) of the Social Security Act after 180 days after  
8 the date of the enactment of this Act.

9 **TITLE IV—MISCELLANEOUS AND**  
10 **TECHNICAL AMENDMENTS**  
11 **Subtitle A—Amendments Relating**  
12 **to the Ticket to Work and Work**  
13 **Incentives Improvement Act of**  
14 **1999**

15 **SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY**  
16 **SUNSET DATE TO NEW PROJECTS.**

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

19 (1) in the first sentence of subsection (c), by  
20 striking “conducted under subsection (a)” and in-  
21 serting “initiated under subsection (a) on or before  
22 December 17, 2004”; and

23 (2) in subsection (d)(2), by amending the first  
24 sentence to read as follows: “The authority to ini-

1       tiate projects under the preceding provisions of this  
2       section shall terminate on December 18, 2004.”.

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

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

15 **SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PRO-**  
16                   **VIDED FOR REDUCTIONS IN DISABILITY IN-**  
17                   **SURANCE BENEFITS BASED ON EARNINGS.**

18      Section 302(f) of the Ticket to Work and Work In-  
19      centives Improvement Act of 1999 (42 U.S.C. 434 note)  
20      is amended to read as follows:

21      “(f) EXPENDITURES.—Administrative expenses for  
22      demonstration projects under this section shall be paid  
23      from funds available for the administration of title II or  
24      title XVIII of the Social Security Act, as appro-  
25      priate. Benefits payable to or on behalf of individuals by



1 reason of participation in projects under this section shall  
 2 be made from the Federal Disability Insurance Trust  
 3 Fund and the Federal Old-Age and Survivors Insurance  
 4 Trust Fund, as determined appropriate by the Commis-  
 5 sioner of Social Security, and from the Federal Hospital  
 6 Insurance Trust Fund and the Federal Supplementary  
 7 Medical Insurance Trust Fund, as determined appropriate  
 8 by the Secretary of Health and Human Services, from  
 9 funds available for benefits under such title II or title  
 10 XVIII.”.

11 **SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK IN-**  
 12 **CENTIVE SERVICES TO ADDITIONAL INDIVID-**  
 13 **UALS.**

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

16 (1) **IN GENERAL.—**Section 1149(c)(2) of the  
 17 Social Security Act (42 U.S.C. 1320b–20(c)(2)) is  
 18 amended to read as follows:

19 “(2) **DISABLED BENEFICIARY.—**the term ‘dis-  
 20 abled beneficiary’ means an individual—

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

23 “(B) who is receiving a cash payment de-  
 24 scribed in section 1616(a) of this Act or a sup-  
 25 plementary payment described in section

1           212(a)(3) of Public Law 93–66 (without regard  
2           to whether such payment is paid by the Com-  
3           missioner pursuant to an agreement under sec-  
4           tion 1616(a) of this Act or under section  
5           212(b) of Public Law 93–66);

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

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

13          (2) EFFECTIVE DATE.—The amendment made  
14          by this subsection shall apply with respect to grants,  
15          cooperative agreements, or contracts entered into on  
16          or after the date of the enactment of this Act.

17          (b) STATE GRANTS FOR WORK INCENTIVES ASSIST-  
18          ANCE.—

19               (1) IN GENERAL.—Section 1150(g)(2) of such  
20          Act (42 U.S.C. 1320b–21(g)(2)) is amended to read  
21          as follows:

22               “(2) DISABLED BENEFICIARY.—the term ‘dis-  
23          abled beneficiary’ means an individual—

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

1           “(B) who is receiving a cash payment de-  
2           scribed in section 1616(a) of this Act or a sup-  
3           plementary payment described in section  
4           212(a)(3) of Public Law 93–66 (without regard  
5           to whether such payment is paid by the Com-  
6           missioner pursuant to an agreement under sec-  
7           tion 1616(a) of this Act or under section  
8           212(b) of Public Law 93–66);

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

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

16          (2) EFFECTIVE DATE.—The amendment made  
17          by this subsection shall apply with respect to pay-  
18          ments provided after the date of the enactment of  
19          this Act.

20 **SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREAT-**  
21 **MENT FOR CERTAIN PURPOSES OF INDI-**  
22 **VIDUAL WORK PLANS UNDER THE TICKET TO**  
23 **WORK AND SELF-SUFFICIENCY PROGRAM.**

24          (a) IN GENERAL.—Section 1148(g)(1) of the Social  
25 Security Act (42 U.S.C. 1320b–19) is amended by adding

1 at the end, after and below subparagraph (E), the fol-  
2 lowing new sentence:

3 “An individual work plan established pursuant to  
4 this subsection shall be treated, for purposes of sec-  
5 tion 51(d)(6)(B)(i) of the Internal Revenue Code of  
6 1986, as an individualized written plan for employ-  
7 ment under a State plan for vocational rehabilitation  
8 services approved under the Rehabilitation Act of  
9 1973.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall take effect as if included in section  
12 505 of the Ticket to Work and Work Incentives Improve-  
13 ment Act of 1999 (Public Law 106-170; 113 Stat. 1921).

## 14 **Subtitle B—Miscellaneous** 15 **Amendments**

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

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

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall apply with respect to final determina-

1 tions issued (upon remand) on or after the date of the  
2 enactment of this Act.

3 **SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL**  
4 **FROM THE UNITED STATES.**

5 (a) IN GENERAL.—Paragraphs (1) and (2) of section  
6 202(n) of the Social Security Act (42 U.S.C. 402(n)(1),  
7 (2)) are each amended by striking “or (1)(E)”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section to section 202(n)(1) of the Social Security Act  
10 shall apply to individuals with respect to whom the Com-  
11 missioner of Social Security receives a removal notice from  
12 the Attorney General after the date of the enactment of  
13 this Act. The amendment made by this section to section  
14 202(n)(2) of the Social Security Act shall apply with re-  
15 spect to removals occurring after the date of the enact-  
16 ment of this Act.

17 **SEC. 413. REINSTATEMENT OF CERTAIN REPORTING RE-**  
18 **QUIREMENTS.**

19 Section 3003(a)(1) of the Federal Reports Elimini-  
20 nation and Sunset Act of 1995 (31 U.S.C. 1113 note)  
21 does not apply to any report required to be submitted  
22 under any of the following provisions of law:

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

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

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

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

7 (B) Section 221(i)(3) of the Social Security Act  
8 (42 U.S.C. 421(i)(3)).

9 (C) Section 103(d)(2) of the Senior Citizens'  
10 Right to Work Act of 1996 (42 U.S.C. 401 note).

11 **SEC. 414. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REF-**  
12 **ERENCE TO SOCIAL SECURITY OR MEDICARE.**

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

15 (1) in subparagraph (A), by inserting “ ‘Cen-  
16 ters for Medicare & Medicaid Services’,” after  
17 “ ‘Health Care Financing Administration’,” by  
18 striking “or ‘Medicaid’, ” and inserting “ ‘Med-  
19 icaid’, ‘Death Benefits Update’, ‘Federal Benefit In-  
20 formation’, ‘Funeral Expenses’, or ‘Final Supple-  
21 mental Plan’,” and by inserting “ ‘CMS’,” after  
22 “ ‘HCFA’,”;

23 (2) in subparagraph (B), by inserting “Centers  
24 for Medicare & Medicaid Services,” after “Health

1 Care Financing Administration,” each place it ap-  
2 pears; and

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

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to items sent after the sixth month  
9 ending after the Commissioner of Social Security promul-  
10 gates final regulations prescribing the standards applica-  
11 ble to the explicit statements required to be provided in  
12 connection with such items. The Commissioner shall pro-  
13 mulgate such final regulations within one year after the  
14 date of the enactment of this Act.

15 **SEC. 415. CLARIFICATION OF DEFINITIONS REGARDING**  
16 **CERTAIN SURVIVOR BENEFITS.**

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

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

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

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

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

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

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

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

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

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

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



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

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

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

8           (2) by redesignating clauses (1) through (6) as  
9           clauses (A) through (F), respectively;

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

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

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

16           “(2) The requirements of paragraph (1)(E) in con-  
17           nection with the surviving husband of an individual shall  
18           be treated as satisfied if—

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

21           “(B) the prior husband was institutionalized  
22           during the individual’s marriage to the prior hus-  
23           band due to mental incompetence or similar inca-  
24           pacity,

1           “(C) during the period of the prior husband’s  
2           institutionalization, the individual would have di-  
3           vorced the prior husband and married the surviving  
4           husband, but the individual did not do so because  
5           such divorce would have been unlawful, by reason of  
6           the prior husband’s institutionalization, under the  
7           laws of the State in which the individual was domi-  
8           ciled at the time (as determined based on evidence  
9           satisfactory to the Commissioner of Social Security),

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

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

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

19           **SEC. 416. OPTIONAL METHODS FOR COMPUTING NET EARN-**  
20           **INGS FROM SELF-EMPLOYMENT.**

21           (a) **AMENDMENTS TO THE INTERNAL REVENUE**  
22           **CODE OF 1986.**—

23           (1) **IN GENERAL.**—Section 1402(h) of the In-  
24           ternal Revenue Code of 1986 is amended to read as  
25           follows:

1       “(h) OPTIONAL METHOD FOR COMPUTING NET  
2 EARNINGS FROM SELF-EMPLOYMENT.—

3               “(1) INDIVIDUALS.—In the case of any trade or  
4 business which is carried on by an individual—

5                       “(A) if the gross income derived by the in-  
6 dividual from such trade or business is not  
7 more than the upper limit for the taxable year  
8 and the net earnings from self-employment de-  
9 rived by the individual from such trade or busi-  
10 ness (computed under subsection (a) without  
11 regard to this sentence) are less than  $66\frac{2}{3}$  per-  
12 cent of such gross income, the net earnings  
13 from self-employment derived by the individual  
14 from such trade or business may, at the individ-  
15 ual’s option, be deemed to be  $66\frac{2}{3}$  percent of  
16 such gross income, or

17                       “(B) if the gross income derived by the in-  
18 dividual from such trade or business is more  
19 than the upper limit for the taxable year and  
20 the net earnings from self-employment derived  
21 by the individual from such trade or business  
22 (computed under subsection (a) without regard  
23 to this sentence) are less than the lower limit  
24 for the taxable year, the net earnings from self-  
25 employment derived by the individual from such

1 trade or business may, at the individual's op-  
2 tion, be deemed to be the lower limit for the  
3 taxable year.

4 “(2) MEMBER OF A PARTNERSHIP.—In the case  
5 of a member of a partnership carrying on any trade  
6 or business—

7 “(A) if the member's distributive share of  
8 the gross income of the partnership derived  
9 from such trade or business (after such gross  
10 income has been reduced by the sum of all pay-  
11 ments to which section 707(c) applies) is not  
12 more than the upper limit for the taxable year  
13 and the member's distributive share (whether or  
14 not distributed) of income described in section  
15 702(a)(8) derived from such trade or business  
16 (computed under this subsection without regard  
17 to this sentence) is less than  $66\frac{2}{3}$  percent of  
18 the member's distributive share of such gross  
19 income (after such gross income has been so re-  
20 duced), the member's distributive share of in-  
21 come described in section 702(a)(8) derived  
22 from such trade or business may, at the mem-  
23 ber's option, be deemed to be an amount equal  
24 to  $66\frac{2}{3}$  percent of the member's distributive

1 share of such gross income (after such gross in-  
2 come has been so reduced), or

3 “(B) if the member’s distributive share of  
4 the gross income of the partnership derived  
5 from such trade or business (after such gross  
6 income has been reduced by the sum of all pay-  
7 ments to which section 707(c) applies) is more  
8 than the upper limit for the taxable year and  
9 the member’s distributive share (whether or not  
10 distributed) of income described in section  
11 702(a)(8) derived from such trade or business  
12 (computed under this subsection without regard  
13 to this sentence) is less than the lower limit for  
14 the taxable year, the member’s distributive  
15 share of income described in section 702(a)(8)  
16 derived from such trade or business may, at the  
17 member’s option, be deemed to be the lower  
18 limit for the taxable year.

19 “(3) UPPER AND LOWER LIMITS.—For pur-  
20 poses of this subsection—

21 “(A) LOWER LIMIT.—The lower limit for  
22 any taxable year is the sum of the amounts re-  
23 quired under section 213(d) of the Social Secu-  
24 rity Act for a quarter of coverage in effect with

1           respect to each calendar quarter ending with or  
2           within such taxable year.

3           “(B) UPPER LIMIT.—The upper limit for  
4           any taxable year is the amount equal to 150  
5           percent of the lower limit for such taxable year.

6           “(4) DETERMINATION OF GROSS INCOME.—For  
7           purposes of this subsection, the term ‘gross income’  
8           means—

9           “(A) in the case of any trade or business  
10          in which the income is computed under a cash  
11          receipts and disbursements method, the gross  
12          receipts from such trade or business reduced by  
13          the cost or other basis of property which was  
14          purchased and sold in carrying on such trade or  
15          business, adjusted (after such reduction) in ac-  
16          cordance with the provisions of paragraphs (1)  
17          through (7) and paragraph (9) of subsection  
18          (a), and

19          “(B) in the case of any trade or business  
20          in which the income is computed under an ac-  
21          crual method, the gross income from such trade  
22          or business, adjusted in accordance with the  
23          provisions of paragraphs (1) through (7) and  
24          paragraph (9) of subsection (a).

1           “(5) INCOME DERIVED FROM MORE THAN ONE  
2           TRADE OR BUSINESS.—For purposes of this sub-  
3           section, if an individual (including a member of a  
4           partnership) derives gross income from more than  
5           one such trade or business, such gross income (in-  
6           cluding his distributive share of the gross income of  
7           any partnership derived from any such trade or  
8           business) shall be deemed to have been derived from  
9           one trade or business.

10           “(6) ELECTION.—The option under this sub-  
11           section shall be allowed for any taxable year only if  
12           elected on the first return filed for such taxable  
13           year”.

14           (2) CONFORMING AMENDMENT.—Section  
15           1402(a) of such Code is amended by striking all that  
16           follows the first sentence following paragraph (15)  
17           and inserting “For optional method of determining  
18           net earnings from self-employment, see subsection  
19           (h).”.

20           (b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

21           (1) IN GENERAL.—Section 211(g) of the Social  
22           Security Act (42 U.S.C. 411(g)) is amended to read  
23           as follows:

1 “Optional Method for Computing Net Earnings From  
2 Self-Employment

3 “(g)(1) In the case of any trade or business which  
4 is carried on by an individual—

5 “(A) if the gross income derived by the indi-  
6 vidual from such trade or business is not more than  
7 the upper limit for the taxable year and the net  
8 earnings from self-employment derived by the indi-  
9 vidual from such trade or business (computed under  
10 subsection (a) without regard to this sentence) are  
11 less than  $66\frac{2}{3}$  percent of such gross income, the net  
12 earnings from self-employment derived by the indi-  
13 vidual from such trade or business may, at the indi-  
14 vidual’s option, be deemed to be  $66\frac{2}{3}$  percent of  
15 such gross income, or

16 “(B) if the gross income derived by the indi-  
17 vidual from such trade or business is more than the  
18 upper limit for the taxable year and the net earnings  
19 from self-employment derived by the individual from  
20 such trade or business (computed under subsection  
21 (a) without regard to this sentence) are less than the  
22 lower limit for the taxable year, the net earnings  
23 from self-employment derived by the individual from  
24 such trade or business may, at the individual’s op-



1       tion, be deemed to be the lower limit for the taxable  
2       year.

3       “(2) In the case of a member of a partnership car-  
4       rying on any trade or business—

5               “(A) if the member’s distributive share of the  
6       gross income of the partnership derived from such  
7       trade or business (after such gross income has been  
8       reduced by the sum of all payments to which section  
9       707(c) of the Internal Revenue Code of 1986 ap-  
10      plies) is not more than the upper limit for the tax-  
11      able year and the member’s distributive share  
12      (whether or not distributed) of income described in  
13      section 702(a)(8) of such Code derived from such  
14      trade or business (computed under this subsection  
15      without regard to this sentence) is less than  $66\frac{2}{3}$   
16      percent of the member’s distributive share of such  
17      gross income (after such gross income has been so  
18      reduced), the member’s distributive share of income  
19      described in section 702(a)(8) derived from such  
20      trade or business may, at the member’s option, be  
21      deemed to be an amount equal to  $66\frac{2}{3}$  percent of  
22      the member’s distributive share of such gross income  
23      (after such gross income has been so reduced), or

24               “(B) if the member’s distributive share of the  
25      gross income of the partnership derived from such

1 trade or business (after such gross income has been  
2 reduced by the sum of all payments to which section  
3 707(c) of such Code applies) is more than the upper  
4 limit for the taxable year and the member's distribu-  
5 tive share (whether or not distributed) of income de-  
6 scribed in section 702(a)(8) of such Code derived  
7 from such trade or business (computed under this  
8 subsection without regard to this sentence) is less  
9 than the lower limit for the taxable year, the mem-  
10 ber's distributive share of income described in sec-  
11 tion 702(a)(8) of such Code derived from such trade  
12 or business may, at the member's option, be deemed  
13 to be the lower limit for the taxable year.

14 “(3) For purposes of this subsection—

15 “(A) The lower limit for any taxable year is the  
16 sum of the amounts required under section 213(d)  
17 for a quarter of coverage in effect with respect to  
18 each calendar quarter ending with or within such  
19 taxable year.

20 “(B) The upper limit for any taxable year is the  
21 amount equal to 150 percent of the lower limit for  
22 such taxable year.

23 “(4) For purposes of this subsection, the term ‘gross  
24 income’ means—

1           “(A) in the case of any trade or business in  
2           which the income is computed under a cash receipts  
3           and disbursements method, the gross receipts from  
4           such trade or business reduced by the cost or other  
5           basis of property which was purchased and sold in  
6           carrying on such trade or business, adjusted (after  
7           such reduction) in accordance with the provisions of  
8           paragraphs (1) through (6) and paragraph (8) of  
9           subsection (a), and

10           “(B) in the case of any trade or business in  
11           which the income is computed under an accrual  
12           method, the gross income from such trade or busi-  
13           ness, adjusted in accordance with the provisions of  
14           paragraphs (1) through (6) and paragraph (8) of  
15           subsection (a).

16           “(5) For purposes of this subsection, if an individual  
17           (including a member of a partnership) derives gross in-  
18           come from more than one such trade or business, such  
19           gross income (including his distributive share of the gross  
20           income of any partnership derived from any such trade  
21           or business) shall be deemed to have been derived from  
22           one trade or business.

23           “(6) The option under this subsection shall be al-  
24           lowed for any taxable year only if elected in accordance

1 with the provisions of section 1402(h) of the Internal Rev-  
2 enue Code of 1986.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 211(a) of such Act (42 U.S.C.  
5 411(a)) is amended by striking all that follows  
6 the first sentence following paragraph (15) and  
7 inserting “For optional method of determining  
8 net earnings from self-employment, see sub-  
9 section (g).”.

10 (B) Section 212 of such Act (42 U.S.C.  
11 412) is amended—

12 (i) in subsection (b), by striking  
13 “For” and inserting “Except as provided  
14 in subsection (c), for”; and

15 (ii) by adding at the end the following  
16 new subsection:

17 “(c) For the purpose of determining average indexed  
18 monthly earnings, average monthly wage, and quarters of  
19 coverage in the case of any individual who elects the option  
20 described in paragraph (1)(B) or (2)(B) of section 211(g)  
21 for any taxable year that does not begin with or during  
22 a particular calendar year and end with or during such  
23 year, the self-employment income of such individual  
24 deemed to be derived during such taxable year shall be  
25 allocated to the two calendar years, portions of which are

1 included within such taxable year, in the same proportion  
2 to the total of such deemed self-employment income as the  
3 sum of the amounts applicable under section 213(d) for  
4 the calendar quarters ending with or within each such cal-  
5 endar year bears to the lower limit for such taxable year  
6 specified in section 211(g)(3)(A).”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 the date of the enactment of this Act.

10 **SEC. 417. CLARIFICATION RESPECTING THE FICA AND**  
11 **SECA TAX EXEMPTIONS FOR AN INDIVIDUAL**  
12 **WHOSE EARNINGS ARE SUBJECT TO THE**  
13 **LAWS OF A TOTALIZATION AGREEMENT**  
14 **PARTNER.**

15 Sections 1401(c), 3101(c), and 3111(c) of the Inter-  
16 nal Revenue Code of 1986 are each amended by striking  
17 “to taxes or contributions for similar purposes under” and  
18 inserting “exclusively to the laws applicable to”.

19 **Subtitle C—Technical Amendments**

20 **SEC. 431. TECHNICAL CORRECTION RELATING TO RESPON-**  
21 **SIBLE AGENCY HEAD.**

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

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

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

6 **SEC. 432. TECHNICAL CORRECTION RELATING TO RETIRE-**  
7 **MENT BENEFITS OF MINISTERS.**

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

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

21 **SEC. 433. TECHNICAL CORRECTIONS RELATING TO DOMES-**  
22 **TIC EMPLOYMENT.**

23          (a) AMENDMENT TO INTERNAL REVENUE CODE.—  
24          Section 3121(a)(7)(B) of the Internal Revenue Code of

1 1986 is amended by striking “described in subsection  
2 (g)(5)” and inserting “on a farm operated for profit”.

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

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

12 **SEC. 434. TECHNICAL CORRECTIONS OF OUTDATED REF-**  
13 **ERENCES.**

14 (a) CORRECTION OF TERMINOLOGY AND CITATIONS  
15 RESPECTING REMOVAL FROM THE UNITED STATES.—  
16 Section 202(n) of the Social Security Act (42  
17 U.S.C. 402(n)) is amended—

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

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

22 (3) in paragraph (1) (in the matter preceding  
23 subparagraph (A)), by striking “under section  
24 241(a) (other than under paragraph (1)(C) or  
25 (1)(E) thereof)” and inserting “under section 237(a)

1 (other than paragraph (1)(C) or (1)(E) thereof) or  
2 212(a)(6)(A)”;

3 (4) in paragraph (2), by striking “under any of  
4 the paragraphs of section 241(a) of the Immigration  
5 and Nationality Act (other than under paragraph  
6 (1)(C) or (1)(E) thereof)” and inserting “under any  
7 of the paragraphs of section 237(a) of the Immigra-  
8 tion and Nationality Act (other than paragraph  
9 (1)(C) or (1)(E) thereof) or under section  
10 212(a)(6)(A) of such Act”;

11 (5) in paragraph (3)—

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

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

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

19 (b) CORRECTION OF CITATION RESPECTING THE  
20 TAX DEDUCTION RELATING TO HEALTH INSURANCE  
21 COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section  
22 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amend-  
23 ed by striking “section 162(m)” and inserting “section  
24 162(l)”.



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

7 **SEC. 435. TECHNICAL CORRECTION RESPECTING SELF-EM-**  
8 **PLOYMENT INCOME IN COMMUNITY PROP-**  
9 **ERTY STATES.**

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

21 (b) INTERNAL REVENUE CODE OF 1986 AMEND-  
22 MENT.—Section 1402(a)(5)(A) of the Internal Revenue  
23 Code of 1986 is amended by striking “all of the gross in-  
24 come” and all that follows and inserting “the gross income  
25 and deductions attributable to such trade or business shall

1 be treated as the gross income and deductions of the  
2 spouse carrying on such trade or business or, if such trade  
3 or business is jointly operated, treated as the gross income  
4 and deductions of each spouse on the basis of their respec-  
5 tive distributive share of the gross income and deductions;  
6 and”.

○