RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

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

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 2003.

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

DEAR MR. SPEAKER: Effective March 5, 2003, I hereby take a leave of absence from the Committee on Armed Services due to my appointments to the Permanent Select Committee on Intelligence and the Committee on Government Reform.

Sincerely,
C.A. DUTCH RUPPERSBERGER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Ms. DELAURO. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 124) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 124

Resolved, That the following named Members and Delegates be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON ARMED SERVICES: Mr. Ryan of Ohio (to rank immediately after Mr. Alexander).

(2) COMMITTEE ON EDUCATION: Mr. Bishop of New York (to rank immediately after Mr. Ryan of Ohio).

(3) COMMITTEE ON FINANCIAL SERVICES: Mr. Sanders (to rank immediately after Ms. Waters).

(4) COMMITTEE ON GOVERNMENT REFORM: Mr. Sanders (to rank immediately after Mr. Kanjorski), Mr. Cooper (to rank immediately after Ms. Norton).

(5) COMMITTEE ON RESOURCES: Mr. George Miller of California, Mr. Markey, Mr. Hinojosa, Mr. Rodriguez, Mr. Baca, Ms. McCollum.

(6) COMMITTEE ON SCIENCE: Mr. Cardoza (to rank immediately after Mr. Matheson), Ms. Jackson-Lee of Texas (to rank immediately after Mr. Davis of Tennessee), Ms. Lofgren (to rank immediately after Ms. Jackson-Lee of Texas).

(7) COMMITTEE ON SMALL BUSINESS: Mr. Faleomavaega (to rank immediately after Mr. Ballance), Ms. Linda T. Sánchez.

Ms. DELAURO (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance the program protections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 743

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Protection Act of 2003''.

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

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.
Sec. 102. Oversight of representative payees.
Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
Sec. 105. Liability of representative payees for misused benefits.
Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

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

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
Sec. 205. Refusal to recognize certain individuals as claimant representatives.
Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

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

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

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

Sec. 401. Application of demonstration authority sunset date to new projects.
Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
Sec. 404. Availability of Federal and State work incentive services to additional individuals.
Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
Sec. 412. Nonpayment of benefits upon removal from the United States.
Sec. 413. Reinstatement of certain reporting requirements.
Sec. 414. Clarification of definitions regarding certain survivor benefits.
Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
Sec. 417. Compensation for the Social Security Advisory Board.
Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.
Sec. 422. Technical correction relating to retirement benefits of ministers.
Sec. 423. Technical corrections relating to domestic employment.
Sec. 424. Technical corrections of outdated references.
Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

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

(a) TITLE II AMENDMENTS.—

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

''(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).''.

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

''(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.''.

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentences: ''In any case in which a representative payee that—

''(1) is not an individual; or

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

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).''.

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

''(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.''.

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking ''for his or her benefit'' and inserting ''for his or her use and benefit''.

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: ''In any case in which a representative payee that—

''(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

''(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).''.

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

(A) in paragraph (12), by striking ''and'' at the end;

(B) in paragraph (13), by striking the period and inserting ''; and''; and

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

''(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.''.

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

''(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

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

(A) in paragraph (2)(C)(v), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in paragraph (9))'';

(B) in paragraph (3)(F), by striking ''community-based nonprofit social service agencies'' and inserting ''certified community-based nonprofit social service agencies (as defined in paragraph (9))'';

(C) in paragraph (4)(B), by striking ''any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee'' and inserting ''any certified community-based nonprofit social service agency (as defined in paragraph (9))''; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

''(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.''.

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

(A) in subparagraph (B)(vii), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in subparagraph (I))'';

(B) in subparagraph (D)(ii)—

(i) by striking ''or any community-based'' and all that follows through ''in accordance'' in subclause (II) and inserting ''or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance'';

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking ''subclause (II)(bb)'' and inserting ''subclause (II)''; and

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

''(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

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

(b) PERIODIC ONSITE REVIEW.—

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

''(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

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

''(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

''(iii) the representative payee is an agency (other than an agency described in clause

(ii)) that serves in that capacity with respect to 50 or more such individuals.

''(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(i) the number of such reviews;

''(ii) the results of such reviews;

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

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

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

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

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

''(viii) such other information as the Commissioner deems appropriate.''.

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

''(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

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

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

''(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(A) the number of such reviews;

''(B) the results of such reviews;

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

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

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

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

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

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

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

''(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

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

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

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

''(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

''(I) the number of the reviews;

''(II) the results of such reviews;

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

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

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

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

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

''(VIII) such other information as the Commissioner deems appropriate.''.

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

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

(1) in subparagraph (B)(i)—

(A) by striking ''and'' at the end of subclause (III);

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

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

''(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

''(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and'';

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

''(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 202(x)(1)(A)(iv),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

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

(3) in subparagraph (C)(i)(II), by striking ''subparagraph (B)(i)(IV),,'' and inserting ''subparagraph (B)(i)(VI)'' and striking ''section 1631(a)(2)(B)(ii)(IV)'' and inserting ''section 1631(a)(2)(B)(ii)(VI)''; and

(4) in subparagraph (C)(i)—

(A) by striking ''or'' at the end of subclause (II);

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

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

''(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

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

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

(1) in subsection (b)(2)—

(A) by striking ''and'' at the end of subparagraph (C);

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

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

''(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(E) obtain information concerning whether such person is a person described in section 804(a)(2); and'';

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

''(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

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

''(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

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

(3) in subsection (d)(1)—

(A) by striking ''or'' at the end of subparagraph (B);

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

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

''(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

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

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

(1) in clause (ii)—

(A) by striking ''and'' at the end of subclause (III);

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

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

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

''(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and'';

(2) in clause (iii)(II)—

(A) by striking ''clause (ii)(IV)'' and inserting ''clause (ii)(VI)''; and

(B) by striking ''section 205(j)(2)(B)(i)(IV)'' and inserting ''section 205(j)(2)(B)(i)(VI)'';

(3) in clause (iii)—

(A) by striking ''or'' at the end of subclause (II);

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

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

''(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

''(V) such person is a person described in section 1611(e)(4)(A).''; and

(4) by adding at the end the following new clause:

''(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 1611(e)(4)(A),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.''.

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

(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

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

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

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Secretary'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner''.

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

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Commissioner'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner''.

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

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

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

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

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking ''paragraph (9)'' and inserting ''paragraph (10)'';

(3) in paragraph (6)(A)(ii), by striking ''paragraph (9)'' and inserting ''paragraph (10)''; and

(4) by inserting after paragraph (6) the following new paragraph:

''(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

''(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

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

''(l) LIABILITY FOR MISUSED AMOUNTS.—

''(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

''(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

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

(1) in subparagraph (G)(i)(II), by striking ''section 205(j)(9)'' and inserting ''section 205(j)(10)''; and

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

''(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

''(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

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

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

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

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

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

''(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

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

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

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

''(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.''.

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

''(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

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

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

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

''(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.''.

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

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

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

(A) by striking ''who'' in the first sentence and inserting ''who—'';

(B) by striking ''makes'' in the first sentence and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

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

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to'';

(C) by inserting ''or each receipt of such benefits or payments while withholding disclosure of such fact'' after ''each such statement or representation'' in the first sentence;

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation'' in the second sentence; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation'' in the second sentence.

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

(A) by striking ''who'' the first place it appears and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to,'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

''(2) makes such a statement or representation for such use with knowing disregard for the truth, or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,''.

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

(c) CONFORMING AMENDMENTS.—

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

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

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

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

(2) in paragraph (1)(A)(ii)(IV), by striking ''or'' at the end;

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

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

''(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

''(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual.''; and

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

''(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

''(i) the beneficiary—

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

''(II) has information that is necessary for the officer to conduct the officer's official duties; and

''(ii) the location or apprehension of the beneficiary is within the officer's official duties.''.

(b) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

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

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

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

''(i) explains that the product or service is available free of charge from the Social Security Administration, and

''(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

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

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

''(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.''; and

(2) in the heading, by striking ''PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE'' and inserting ''PROHIBITIONS RELATING TO REFERENCES''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: ''Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.''.

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

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

''ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

''SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.''.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

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

(1) in subparagraph (A), by inserting '' 'Centers for Medicare & Medicaid Services','' after '' 'Health Care Financing Administration','', by striking ''or 'Medicaid', '' and inserting '' 'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan','' and by inserting '' 'CMS','' after '' 'HCFA','';

(2) in subparagraph (B), by inserting ''Centers for Medicare & Medicaid Services,'' after ''Health Care Financing Administration,'' each place it appears; and

(3) in the matter following subparagraph (B), by striking ''the Health Care Financing Administration,'' each place it appears and inserting ''the Centers for Medicare & Medicaid Services,''.

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

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

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

''(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

''(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

''(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

''(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

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

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

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

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

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

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

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

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

''(i) RESTITUTION.—

''(1) IN GENERAL.—In any case where''; and

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

''(2) COURT ORDER FOR RESTITUTION.—

''(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

''(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

''(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.''.

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

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

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

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

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

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

(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

''(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

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

(1) by inserting '', except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences'' after ''subparagraph (B)''; and

(2) by adding at the end the following new sentence: ''In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.''.

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

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

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

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

(A) by striking ''section 206(a)'' and inserting ''section 206'';

(B) by striking ''(other than paragraph (4) thereof)'' and inserting ''(other than subsections (a)(4) and (d) thereof)''; and

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

(2) in subparagraph (A)(i), by striking ''in subparagraphs (A)(ii)(I) and (C)(i),'' and inserting ''in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)'', and by striking ''and'' at the end;

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

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

''(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

''(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

''(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'.''; and

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

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

''(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

''(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

''(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

''(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

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

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

''(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

''(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

''(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated

are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

(c) STUDY REGARDING FEE-WITHHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

(i) their training, qualifications, and competency,

(ii) the type and quality of services provided, and

(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

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

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

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

(1) in the first sentence of subsection (c), by striking ''conducted under subsection (a)'' and inserting ''initiated under subsection (a) on or before December 17, 2004''; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: ''The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.''.

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking ''(42 U.S.C. 401 et seq.),'' and inserting ''(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act,''.

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

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

''(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.''.

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

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

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

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

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

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

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

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

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

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

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

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

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

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

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

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

''An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.''.

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

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking ''and a transcript'' and inserting ''and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript''.

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

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

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

(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

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

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

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

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

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

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

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

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

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

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

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

(4) by inserting ''(1)'' after ''(c)''; and

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

''(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving wife,

''(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

''(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior wife continued to remain institutionalized up to the time of her death, and

''(E) the individual married the surviving wife within 60 days after the prior wife's death.''.

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

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

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

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''he was married'';

(4) by inserting ''(1)'' after ''(g)''; and

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

''(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving husband,

''(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

''(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior husband continued to remain institutionalized up to the time of his death, and

''(E) the individual married the surviving husband within 60 days after the prior husband's death.''.

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking ''clause (5) of subsection (c) or clause (5) of subsection (g)'' and inserting ''clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)''.

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

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking ''to taxes or contributions for similar purposes under'' and inserting ''exclusively to the laws applicable to''.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky,'' after ''Illinois,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

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

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

''Compensation, Expenses, and Per Diem

''(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.''.

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

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

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking ''if, on'' and inserting '''if, during any portion of the last 60 months of such service ending with''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)—

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted ''employment'' as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such ''employment''.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

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

(1) by striking ''Secretary'' the first place it appears and inserting ''Commissioner of Social Security''; and

(2) by striking ''Secretary'' each subsequent place it appears and inserting ''Commissioner''.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting '', but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires'' before the semicolon.

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

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking ''described in subsection (g)(5)'' and inserting ''on a farm operated for profit''.

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

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

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking ''deportation'' each place it appears and inserting ''removal'';

(2) by striking ''deported'' each place it appears and inserting ''removed'';

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking ''under section 241(a) (other than under paragraph (1)(C) thereof)'' and inserting ''under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)'';

(4) in paragraph (2), by striking ''under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)'' and inserting ''under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act'';

(5) in paragraph (3)—

(A) by striking ''paragraph (19) of section 241(a)'' and inserting ''subparagraph (D) of section 237(a)(4)''; and

(B) by striking ''paragraph (19)'' and inserting ''subparagraph (D)''; and

(6) in the heading, by striking ''Deportation'' and inserting ''Removal''.

(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking ''section 162(m)'' and inserting ''section 162(l)''.

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

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;''.

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Social Security, as everyone in this Chamber knows, touches the lives of virtually every American and serves as a vital safety net for those who retire, become disabled or die. Nearly $500 billion in Social Security and supplemental security income benefits were paid last year to about 50 million retired and disabled workers their families and SSI recipients. These costs represent close to one-fourth of all Federal outlays last year. More importantly, as baby boomers approach retirement age, Social Security's and SSI's combined benefit outlays are expected to double by the time children born this year finish high school. Programs as important, as comprehensive as these require our constant vigilance. We must act today to address inadequate protections for beneficiaries and the programs in order to avoid potentially tragic consequences in the future.

This is why I urge all Members to support the Social Security Protection Act of 2003. This is a bipartisan bill introduced earlier this month by myself and the gentleman from California (Mr. MATSUI) along with other Members of Congress. The Protection Act will give the Social Security Administration the additional tools needed to fight activities that drain resources from Social Security and undermine the financial security of beneficiaries.

First, this bill protects the one in eight Social Security and SSI beneficiaries who cannot, for physical or mental reasons, handle their own funds. For these persons, the Social Security Administration appoints an individual or organization called a representative payee to manage their benefits. While most representative payees are conscientious and they are honest, some violate the trust placed in them.

The Social Security Inspector General reported that in the late 1990's over 2,400 representative payees missed about $12 million in benefits. This bill raises the standard for persons and organizations serving as representative payees and imposes stricter regulation and monetary penalties on those who mismanage benefits.

Second, this bill picks up where legislation enacted in 1996 let off in ending benefit payments to those who committed crimes. That legislation denied SSI benefits to fugitive felons. However, these criminals are still allowed to receive Social Security benefits. The Congressional Budget Office estimates that they will pay $526 million out of the Social Security trust fund to these law-breakers over the next 10 years. This is not right, and this legislation denies them these benefits.

The Protection Act also provides tools to further safeguard Social Security programs. Our goals are to help shield Social Security employees from harm while conducting their duties, expanding the Inspector General's ability to stop perpetrators of fraud through new civil monetary penalties, and prevent people from misrepresenting themselves as they provide Social Security-related services.

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On top of this, the bill helps individuals with disabilities by, one, making it easier for them to obtain legal representation while applying for benefits by improving the attorney fee withholding process; two, enhancing provisions of the Ticket to Work Program; and, three, encouraging more employers to hire individuals with disabilities by expanding eligibility for the Work Opportunity Tax Credit.

Finally, the bill contains several provisions aimed at correcting inequities in the law regarding benefit coverage and receipt, as well as making technical corrections to the law.

It is our and the agency's duty to protect Social Security programs and the beneficiaries. This bill is the accumulation of bipartisan efforts towards that, and as well as the cooperation and support of the Social Security Administration and the Social Security Inspector General. That is why the 107th Congress's version of the bill, the Social Security Protection Act of 2002, passed this House by an overwhelming bipartisan support of 425 to 0 and passed the Senate as amended under unanimous consent.

I urge the Members today to finish the good work begun in the 107th Congress and vote in favor of the Social Security Protection Act. We must enact these changes quickly to protect the most vulnerable beneficiaries and to stop Social Security from hemorrhaging precious dollars through fraud and benefit misuse.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first of all, I wish to commend the Chair of the Subcommittee on Social Security, the gentleman from Florida (Mr. SHAW), for the bipartisanship in which we were able to put this legislation together. As many know, and as the gentleman from Florida (Mr. SHAW) mentioned, we passed this bill last year, in the last Congress, but unfortunately, it was dropped during the waning hours of the joint House-Senate conference committees in the month of October. So now we are bringing the bill back.

It essentially has four parts to it. We added one provision which has become somewhat controversial. As the gentleman from Florida (Mr. SHAW) says, it has strengthening of the representative pay provisions of the law. Obviously, when someone is mentally disabled or one is a child, one needs a representative payee. This bill strengthens that law to protect the recipient, the beneficiary.

Second, it provides anti-fraud provisions in the legislation, including denying benefits to fugitive felons and also those who have violated their parole.

Thirdly, it provides for SSI recipients more of the advantages of having a lawyer or others represent that person as they are going through the administrative process, essentially by creating the same kind of withholding of benefits by the attorney or other representative of the claimant as we currently have in the Social Security System. So SSI beneficiaries will have the same kind of rights as the Social Security recipients. And, in addition, it caps attorneys' fees, the processing fees, to $75. So it will make it much easier for people to actually go through the administrative procedures.

It has 18 technical provisions in the legislation, or in the bill last year. The one area in which we have added to it is it closes a loophole in which some have attempted to get around the GPO, the government pension offset provisions that are currently in the law. The gentleman from Florida (Mr. SHAW) has indicated to me and to others that he intends to have hearings on the whole

issue of the government pension offset issue. And as a result of that, I am very satisfied with this legislation.

As I indicated, Mr. Speaker, many of my colleagues have problems with it on my side of the aisle. They intend to speak on this issue today. I would urge a ''yes'' vote on it, but I certainly can understand some of those that might have some differences of opinion on that one provision.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I insert for the RECORD two documents. The first is bipartisan summary report language, including a detailed summary of current law and an explanation of each provision and the reasons for the change. The second is a list of organizations, including AARP, that provided letters of support for this bill, with those letters attached.

''THE SOCIAL SECURITY PROTECTION ACT OF 2003'' SUMMARY

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Section 101. Authority to Reissue Benefits Misused by Organizational Representative Payees

PRESENT LAW

The Social Security Act requires the reissuance of benefits miscued by any representative payee when the Commissioner finds that the Social Security Administration (SSA) negligently failed to investigate and monitor the payee.

EXPLANATION OF PROVISION

In addition to cases where the SSA negligently failed to investigate and monitor the payee, the provision also requires the Commissioner to re-issue benefits under Titles II, VIII and XVI in any case in which a beneficiary's funds are misused by a representative payee that is not an individual (regardless of whether it is a qualified organization such as a state/local agency or a community nonprofit social service agency) or an individual payee representing 15 or more beneficiaries.

The new provision defines misuse as any case in which a representative payee converts the benefits entrusted to his or her care for purposes other than the ''use and benefit'' of the beneficiary, and authorizes the Commissioner to define ''use and benefit'' in regulation.

In crafting a regulatory definition for ''use and benefit,'' the Commissioner should take special care to distinguish between the situation in which the representative payee violates his or her responsibility by converting the benefits to further the payee's own self interest, and the situation in which the payee faithfully serves the beneficiary by using the benefits in a way that principally aids the beneficiary but which also incidentally aids the payee or another individual. For instance, cases in which a representative payee uses the benefits entrusted to his or her care to help pay the rent on an apartment that he or she and the beneficiary share should not be considered misuse.

The effective date applies to any cases of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995. This protects the interests of beneficiaries affected by cases of egregious misuse that have been identified in recent years.

REASON FOR CHANGE

There have been a number of highly publicized cases involving organizational representative payees that have misused large sums of monies paid to them on behalf of the Social Security and Supplemental Security Income (SSI) beneficiaries they represented. In most instances, these organizations operated as criminal enterprises, bent not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went undetected until large sums had been stolen. If the Social Security Administration is not shown to be negligent for failing to investigate and monitor the payee, affected beneficiaries may never be repaid or may be repaid only when the representative payee committing misuse makes restitution to the SSA.

Requiring the SSA to reissue benefit payments to the victims of misuse in these cases protects beneficiaries who are among the most vulnerable, because they may have no family members or friends who are willing or able to manage their benefits for them. These are cases in which misuse of benefits may be the hardest to detect. Moreover, extending the provision to cases involving individual payees serving fewer beneficiaries may lead to fraudulent claims of misuse. These claims, which often turn on information available only from close family members, would be difficult to assess. Similarly, extension of this provision to these cases could potentially encourage misuse or poor money management by these individual representative payees, if they believe the SSA could eventually pay the beneficiary a second time.

Section 102. Oversight of Representative Payees

PRESENT LAW

Present law requires community-based nonprofit social service serving as representative payees to be licensed or bonded. Payees are not required to submit proof of bonding or licensing, and they are not subject to independent audits. In addition, there is no provision requiring periodic onsite reviews of organizational payees (other than the accountability monitoring done for State institutions that serve as representative payees).

EXPLANATION OF PROVISION

The new provision requires community-based nonprofit social service agencies serving as representative payees to be both bonded and licensed (provided that licensing is available in the State). In addition, such representative payees must submit yearly proof of bonding and licensing, as well as copies of any independent audits that were performed on the payee since the previous certification.

The new provision also requires the Commissioner of Social Security to conduct periodic onsite reviews of: (1) a person who serves as a representative payee to 15 or more beneficiaries; (2) community-based nonprofit social service agencies serving as representative payees; and (3) any agency that serves as the representative payee to 50 or more beneficiaries. In addition, the Commissioner is required to submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the reviews conducted in the prior fiscal year.

The bonding, licensing, and audit provisions are effective on the first day of the 13th month following enactment of the legislation. The periodic on-site review provision is effective upon enactment.

REASON FOR CHANGE

Strenthening the bonding and licensing requirements for community-based nonprofit social service agencies would add further safeguards to protect beneficiaries' funds. State licensing provides for some oversight by the State into the organization's business practices, and bonding provides some assurances that a surety company has investigated the organization and approved it for the level of risk associated with the bond. Requiring annual certification as to the licensing and bonding of the payee, as well as submission of audits performed, should help prevent a payee from dropping their licensing or bonding subsequent to the SSA approving them as payee.

On-site periodic visits should be conducted regularly to reduce misuse of funds. To the degree possible, appropriate auditing and accounting standards should be utilized in conducting such reviews.

Section 103. Disqualification from Service as Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment for More Than One Year, or Fleeing Prosecution, Custody or Confinement.

PRESENT LAW

Sections 205, 807, and 1631 of the Social Security Act disqualify individuals from being representative payees if they have been convicted of fraudulent conduct involving Social Security programs.

EXPLANATION OF PROVISION

The new provision expands the scope of disqualification to prohibit an individual from serving as a representative payee if he or she has been convicted of an offense resulting in imprisonment for more than one year, unless the Commissioner determines that payee status would be appropriate despite the conviction. It also disqualifies persons fleeing prosecution, custody, or confinement for a felony from being representative payees. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

The new provision requires the Commissioner, in consultation with the SSA Inspector General, to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating existing procedures and reviews conducted for representative payees to determine whether they are sufficient to protect benefits from being misused.

This provision is effective on the first day of the 13th month beginning after the date of enactment, except that the report to Congress is due no later than 270 days after the date of enactment.

REASON FOR CHANGE

Prohibiting persons convicted of offenses resulting in imprisonment for more than one year and persons fleeing prosecution, custody or confinement for a felony from serving as representative payees decreases the likelihood of mismanagement or abuse of beneficiaries' funds. Also, allowing such persons to serve as representative payees could raise serious questions about the SSA's stewardship of taxpayer funds. The agency's report will assist Congress in its oversight of the representative payee program.

Section 104. Fee Forfeiture in Case of Benefit Misuse by Representative Payees

PRESENT LAW

Certain qualified organizations are authorized to collect a fee for their services. The fee, which is determined by a statutory formula, is deducted from the beneficiary's benefit payments.

EXPLANATION OF PROVISION

The new provision requires representative payees to forfeit the fee for those months during which the representative payee misused funds, as determined by the Commissioner of Social Security or a court of competent jurisdiction. This provision applies to

any month involving benefit misuse by a representative payee as determined by the Commissioner or a court of competent jurisdiction after 180 days after the date of enactment.

REASON FOR CHANGE

Payees who misuse their clients' funds are not properly performing the service for which the fee was paid; therefore, they should forfeit such fees. Permitting the payee to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's needs.

Section 105. Liability of Representative Payees for Misused Benefits

PRESENT LAW

Although the SSA has been provided with expanded authority to recover overpayments (such as the use of tax refund offsets, referral to contact collection agencies, notification of credit bureaus, and administrative offsets of future federal benefit payments), these tools cannot be used to recoup benefits misused by a representative payee.

EXPLANATION OF PROVISION

The new provision treats benefits misused by any representative payee (except a federal, state or local government agency) as an overpayment to the representative payee, thus subjecting the representative payee to current overpayment recovery authorities. Any recovered benefits not already reissued to the beneficiary pursuant to section 101 of this legislation would be reissued to either the beneficiary or their alternate representative payee, up to the total amount misused. This provision applies to benefit misuse by a representative payee in any case where the Commissioner of Social Security or a court of competent jurisdiction makes a determination of misuse after 180 days after the date of enactment.

REASON FOR CHANGE

Although the SSA has been provided with expanded authority to recover overpayments, these tools cannot be used to recoup benefits misused by a representative payee. Treating misused benefits as overpayments to the representative payee would provide the SSA with additional means for recovering misused payments.

Section 106. Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting

PRESENT LAW

The Social Security Act requires representative payees to submit accounting reports to the Commissioner of Social Security regarding how a beneficiary's benefit payments were used. A report is required at least annually, but may be required by the Commissioner at any time if the Commissioner has reason to believe the representative payee is misusing benefits.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner of Social Security to require a representative payee to receive any benefits under Titles II, VIII, and XVI in person at a Social Security field office if the representative payee fails to provide a required accounting of benefits. The Commissioner would be required to provide proper notice and the opportunity for a hearing prior to redirecting benefits to the field office. This provision is effective 180 days after the date of enactment.

REASON FOR CHANGE

Accounting reports are an important means of monitoring the activities of representative payees to prevent misuse of benefits. Redirecting benefit payments to the field office would enable the agency to promptly address the failure of the representative payee to file a report.

Subtitle B—Enforcement

Section 111. Civil Monetary Penalty Authority with Respect to Wrongful Conversions by Representative Payees

PRESENT LAW

Section 1129 of the Social Security Act authorizes the Commissioner to impose a civil monetary penalty (of up to $5,000 for each violation) along with an assessment (up to twice the amount wrongly paid), upon any person who knowingly uses false information or knowingly omits information to wrongly obtain Title II, VIII or XVI benefits.

EXPLANATION OF PROVISION

The new provision expands civil monetary penalties authority under section 1129 to include misuse of Title II, VIII or XVI benefits by representative payees. A civil monetary penalty of up to $5,000 may be imposed for each violation, along with an assessment of up to twice the amount of misused benefits. This provision applies to violations committed after the date of enactment.

REASON FOR CHANGE

Providing authority for SSA to impose civil monetary penalties along with an assessment of up to twice the amount of misused benefits would provide the SSA with an additional means to address benefit misuse by representative payees.

TITLE II—PROGRAM PROTECTIONS

Section 201. Civil Monetary Penalty Authority with Respect to Knowing Withholding of Material Facts

PRESENT LAW

Section 1129 of the Social Security Act, 42 U.S.C. § 1320a–8, authorizes the Commissioner of Social Security to impose civil monetary penalties and assessments on any person who makes a statement or representation of a material fact for use in determining initial or continuing rights to title II, VIII, or XVI benefits that the person knows or should know omits a material fact or is false or misleading. In order for the penalty or assessment to be imposed, the law requires an affirmative act on the part of the individual of making (or causing to be made) a statement that omits a material fact or is false or misleading.

Section 1129A, 42 U.S.C. 1320a–8a, provides administrative procedures for imposing penalties of nonpayment of title II and XVI benefits (6 months for the first violation) for making false statements.

EXPLANATION OF PROVISION

By including the phrase ''or otherwise withholds disclosure of'', in section 1129 and 1129A, civil monetary penalties and assessments and sanctions could also be imposed for failure to come forward and notify the SSA of changed circumstances that affect eligibility or benefit amount when that person knows or should know that the failure to come forward is misleading. This provision applies to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

REASON FOR CHANGE

Currently the SSA cannot impose civil monetary penalties and assessments on a person who should have come forward to notify the SSA of changed circumstances that affect eligibility or benefit amount, but did not. To be subject to civil monetary penalties and assessments under the current law, an individual must have made a statement that omitted a material fact or was false or misleading. Examples of the types of individuals intended to be covered under this amendment to section 1129 and 1129A include (but are not limited to): (1) an individual who has a joint bank account with a beneficiary in which the SSA direct deposited the beneficiary's Social Security checks; upon the death of the beneficiary, this individual fails to advise the SSA of the beneficiary's death, instead spending the proceeds from the deceased beneficiary's Social Security checks; and (2) an individual who is receiving benefits under one SSN while working under another SSN.

This amendment is intended to close this loophole in the current law, but it is not intended to expand section 1129 and 1129A to include those individuals whose failure to come forward to notify the SSA was not done for the purpose of improperly obtaining or continuing to receive benefits. For instance, it is not intended that the expanded authority be used against individuals who do not have the capacity to understand that their failure to come forward is misleading.

Section 202. Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

PRESENT LAW

Changes in work or earnings status can affect a Title II disability beneficiary's right to continued entitlement to disability benefits. Changes in the amount of earned income can also affect an SSI recipient's continued eligibility for SSI benefits or his or her monthly benefit amount.

The Commissioner has promulgated regulations that require Title II disability beneficiaries to report changes in work or earnings status (20 CFR § 404.1588) and regulations that require SSI recipients (or their representative payees) to report any increase or decrease in income (20 CFR, §§ 416.704–416.714).

EXPLANATION OF PROVISION

The new provision requires the Commissioner to issue a receipt to a disabled beneficiary (or representative of a beneficiary) who reports a change in his or her work or earnings status. The Commissioner is required to continue issuing such receipts until the Commissioner has implemented a centralized computer file that would record the date on which the disabled beneficiary (or representative) reported the change in work or earnings status.

This provision requires the Commissioner to begin issuing receipts as soon as possible, but no later than one year after the date of enactment. The Committee on Ways and Means is aware that the SSA has developed software known as the Modernized Return to Work System (MRTW). This software will assist SSA employees in recording information about changes in work and earnings status and in making determinations of whether such changes affect continuing entitlement to disability benefits. The software also has the capability of automatically issuing receipts. The SSA has informed the Committee on Ways and Means that this software is already in use in some of the agency's approximately 1300 local field offices, and that the SSA expects to put it into operation in the remainder of the field offices over the next year. The Committee on Ways and Means expects that the SSA field offices that are already using the MRTW system will immediately begin issuing receipts to disabled beneficiaries who report changes in work or earnings status, and that the SSA will require the other field offices to begin issuing receipts as these offices begin using the MRTW system over the next year. For disabled Title XVI beneficiaries, if the SSA issues a notice to the beneficiary immediately following the report of earnings that details the effect of the change in income on

the monthly benefit amount, this notice would serve as a receipt.

REASON FOR CHANGE

Witnesses have testified before the Social Security Subcommittee and the Human Resources Subcommittee of the House Ways and Means Committee that the SSA does not currently have an effective system in place for processing and recording Title II and Title XVI disability beneficiaries' reports of changes in work and earnings status. Issuing receipts to disabled beneficiaries who make such reports would provide them with proof that they had properly fulfilled their obligation to report these changes.

Section 203. Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

PRESENT LAW

The ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' (PRWORA) P.L. 104–193, included provisions making persons ineligible to receive SSI benefits during any month in which they are fleeing to avoid prosecution, custody, or confinement for a felony, or if they are in violation of a condition of probation or parole. However, this prohibition was not extended to Social Security benefits under Title II.

EXPLANATION OF PROVISION

The new provision denies Social Security benefits under Title II to persons fleeing prosecution, custody or confinement for a felony, and to persons violating probation or parole. However, the Commissioner may, for good cause, pay withheld benefits. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

This provision is effective the first day of the first month that begins on or after the date that is nine months after the date of enactment.

REASON FOR CHANGE

There are concerns that Social Security benefits, not just Supplemental Security Income and other welfare benefits, are being used to aid flight from justice or other crime. The Congressional Budget Office has estimated that persons fleeing to avoid prosecution for a felony or to avoid custody or confinement after conviction for a felony, or in violation of a condition of probation or parole, will receive $526 million in Title II Social Security benefits over the next 10 years. The Social Security Inspector General (SSA IG) recommended changing the law to prohibit fugitive felons and other criminals from receiving benefits.

The provision gives the Commissioner authority to pay withheld Title II benefits if there is ''good cause.'' The Commissioner would be required to develop regulations within one year of the date of enactment. This ''good cause'' discretion is authorized for the Commissioner in cases of Title II benefits, where it was not authorized or intended for programs affected under the similar provision in PRWORA, because workers earn the right to receive benefits for themselves and their families through their career-long Title II payroll tax contributions.

The good cause exception will provide the Commissioner with the ability to pay benefits under circumstances in which the Commissioner deems withholding of benefits to be inappropriate—for example, but not limited to, situations when Social Security beneficiaries are found to be in flight from a warrant relating to a crime for which a court of competent jurisdiction finds the person not guilty, or if the charges are dismissed; if a warrant for arrest is vacated; or if probation or parole is not revoked. In such circumstances, it is expected that the Commissioner would pay benefits withheld from the beneficiary for which he or she was otherwise eligible but for the prohibition in this provision.

In testimony received at a February 27, 2003 hearing, the Subcommittee was made aware of instances with respect to the SSI program where there may be mitigating circumstances relating to persons with outstanding warrants for their arrest. In addition, PRWORA implementing instructions have been found to vary between agencies. For example, the Department of Agriculture's Food and Nutrition Service has issued instructions that in order to be considered ''fleeing,'' the individual must have knowledge a warrant has been issued for his or her arrest and that the State agency should verify the individual has such knowledge. In addition, once the person has knowledge of the warrant, either by having received it personally or by being advised of its existence by the State agency, he or she is technically ''fleeing'' at that time. Finally, the instructions strongly urge the State agency to give the individual an opportunity to submit documentation that the warrant has been satisfied. The Social Security Administration's procedures do not include such instructions.

The SSA IG is conducting an audit on implementation of the fugitive felon provision for the Supplemental Security Income program, which will shed light on the types of crimes beneficiaries committed, law enforcement's pursuit of such criminals, the length of time benefits were suspended, the SSA's handling of these cases, and other issues. The Subcommittee will continue to closely monitor these issues and encourages the Commissioner to review the agency's implementing instructions in light of these circumstances and what constitutes flight under federal law.

Section 204. Requirements Relating to Offers to Provide for a Fee a Product or Service Available Without Charge From the Social Security Administration

PRESENT LAW

Section 1140 of the Social Security Act prohibits or restricts various activities involving the use of Social Security and Medicare symbols, emblems, or references that give a false impression that an item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. It also provides for the imposition of civil monetary penalties with respect to violations of the section.

EXPLANATION OF PROVISION

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. The new provision requires persons or companies offering such services to include in their offer a statement that the services they provide for a fee are available directly from the SSA free of charge. The statements would be required to comply with standards promulgated through regulation by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility. The amendment applies to offers of assistance made after the 6th month following the issuance of these standards. The new provision requires that the Commissioner promulgate regulations within 1 year after the date of enactment.

REASON FOR CHANGE

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. For example, the SSA's Inspector general has encountered business entities that have offered assistance to individuals in changing their names (upon marriage) or in obtaining a Social Security number (upon the birth of a child) for a fee, even though these services are directly available from the SSA for free. The offer from the business entities either did not state at all, or did not clearly state, that these services were available from the SSA for free. These practices can mislead and deceive senior citizens, newlyweds, new parents, and other individuals seeking services or products, who may not be aware that the SSA provides these services for free.

Section 205. Refusal to Recognize Certain Individuals as Claimant Representatives

PRESENT LAW

An attorney in good standing is entitled to represent claimants before the Commissioner of Social Security. The Commissioner may prescribe rules and regulations governing the recognition of persons other than attorneys representing claimants before the Commissioner. Under present law, attorneys disbarred in one jurisdiction, but licensed to practice in another jurisdiction, must be recognized as a claimant's representative.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner to refuse to recognize as a representative, or disqualifying as a representative, an attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency. Due process (i.e., notice and an opportunity for a hearing) would be required before taking such action. Also, if a representative has been disqualified or suspended as a result of collecting an unauthorized fee, full restitution is required before reinstatement can be considered. This provision is effective upon the date of enactment.

REASON FOR CHANGE

This provision would provide additional protections for beneficiaries who may rely on representatives during all phases of their benefit application process. As part of their ongoing oversight of claimant representatives, the Committee on Ways and Means intends to review whether options to establish protections for claimants represented by non-attorneys should be considered.

Section 206. Penalty for Corrupt or Forcible Interference with Administration of the Social Security Act

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

The new provision imposes a fine of not more than $5,000, imprisonment of not more than 3 years, or both, for attempting to intimidate or impede—corruptly or by using force or threats of force—any Social Security Administration (SSA) officer, employee or contractor (including State employees of disability determination services and any individuals designated by the Commissioner) while they are acting in their official capacities under the Social Security Act. If the offense is committed by threats of force, the offender is subject to a fine of not more than $3,000, no more than one year in prison, or both. This provision is effective upon enactment.

The Committee on Ways and Means expects that judgment will be used in enforcing this section. Social Security and SSI disability claimants and beneficiaries, in particular, are frequently subject to multiple, severe life stressors, which may include severe physical, psychological, or financial difficulties. In addition, disability claimants or

beneficiaries who encounter delays in approval of initial benefit applications or in post-entitlement actions may incur additional stress, particularly if they have no other source of income. Under such circumstances, claimants or beneficiaries may at times express frustration in an angry manner, without truly intending to threaten or intimidate SSA employees. In addition, approximately 25% of Social Security disability beneficiaries and 35% of disabled SSI recipients have mental impairments, and such individuals may be less able to control emotional outbursts. These factors should be taken into account in enforcing this provision.

REASON FOR CHANGE

This provision extends to SSA employees the same protections provided to employees of the Internal Revenue Service under the Internal Revenue Code of 1954. These protections will allow SSA employees to perform their work with more confidence that they will be safe from harm.

The Internal Revenue Manual defines the term ''corruptly'' as follows: '''Corruptly' characterizes an attempt to influence any official in his or her official capacity under this title by any improper inducement. For example, an offer of a bribe or a passing of a bribe to an Internal Revenue employee for the purpose of influencing him or her in the performance of his or her official duties is corrupt interference with the administration of federal laws.'' (Internal Revenue Manual, [9.5] 11.3.2.2, 4–09–1999).

Section 207. Use of Symbols, Emblems or Names in Reference to Social Security or Medicare

PRESENT LAW

Section 1140 of the Social Security Act prohibits (subject to civil penalties) the use of Social Security or Medicare symbols, emblems and references on any item in a manner that conveys the false impression that such item is approved, endorsed or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services) or the Department of Health and Human Services.

EXPLANATION OF PROVISION

The new provision expands the prohibition in present law to several other references to Social Security and Medicare. This includes, but is not limited to, ''Death Benefits Update,'' ''Federal Benefits Information,'' and ''Final Supplemental Plan.'' This provision applies to items sent after 180 days after the date of enactment.

REASON FOR CHANGE

The SSA Inspector General has found these phrases appearing in mailings, solicitations, or flyers, which, when used with the SSA's words, symbols, emblems, and references may be particularly misleading and more likely to convey the false impression that such item is approved, endorsed, or authorized by the SSA, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. Expansion of this list helps to ensure that individuals receiving any type of mail, solicitations or flyers bearing symbols, emblems or names in reference to Social Security or Medicare are not misled into believing that these agencies approved or endorsed the services or products depicted.

Section 208. Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

PRESENT LAW

An individual entitled to disability benefits under Title II is entitled to a ''trial work period'' to test his or her ability to work. The trial work period allows beneficiaries to have earnings from work above a certain amount ($570 a month in 2003) for up to 9 months (which need not be consecutive) within any 60-month period without any loss of benefits. Presently, section 222(c) of the Social Security Act does not prohibit a person entitled to disability benefits under Title II from receiving disability benefits during a trial work period, even if convicted by a federal court for fraudulently concealing work activity during that period.

The SSA's Inspector General has pursued prosecution of Title II disability beneficiaries who fraudulently conceal work activity by applying several criminal statutes, including section 208(a) of the Social Security Act, and sections 371 and 641 of Title 18 of the United States Code (Crimes and Criminal Procedures).

EXPLANATION OF PROVISION

Under the new provision, an individual convicted by a federal court of fraudulently concealing work activity from the Commissioner of Social Security would not be entitled to receive any disability benefits in any trial work period month and would be liable for repayment of those benefits, in addition to any restitution, penalties, fines or assessments otherwise due.

Under this provision, concealing work activity is considered to be fraudulent if the individual (1) provided false information to the SSA about his or her earnings during that period; (2) worked under another identity, including under another person's or a false Social Security number; or (3) took other actions to conceal work activity with the intent to receive benefits to which he or she was not entitled.

This provision is effective with respect to work activity performed after the date of enactment.

REASON FOR CHANGE

Under current law, if an individual is convicted of fraudulently concealing work activity, the dollar loss to the government is calculated based on the benefits that the individual would have received had he or she not concealed the work activity. During the trial work period, disability beneficiaries continue to receive their monthly benefit amount regardless of their work activity. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government, even if the individual fraudulently concealed work activity during that period. As a result, the dollars lost to the government may fall below the thresholds set by the United States Attorneys in cases involving fraudulent concealment of work by Title II disability beneficiaries. In such situations, the case would not be prosecuted, even if the evidence of fraud were very clear.

This provision rectifies the situation by establishing that individuals convicted of fraudulently concealing work activity during the trial work period are not entitled to receive any disability benefits for trial work period months prior to the conviction (but within the same period of disability).

Section 209. Authority for Judicial Orders of Restitution

PRESENT LAW

A court may order restitution when sentencing a defendant convicted of various offenses under titles 18, 21, and 49 of the United States Code. However, violations of the Social Security Act (42 U.S.C.) are not included among those for which the court may order restitution.

EXPLANATION OF PROVISION

This provision amends the Social Security Act to allow a federal court to order restitution to the Social Security Administration for violations of the Social Security Act. Restitution in connection with benefits misuse by a representative payee would be credited to the Social Security Trust Funds for cases involving OASDI recipients and to the General Fund for cases involving Supplemental Security Income and Special Veterans benefits. Other restitution funds, credited to a special fund established in the Treasury, would be available to defray expenses incurred in implementing title II, title VIII, and title XVI. If the court does not order restitution, or only orders partial restitution, the court must state the reason on the record. This provision is effective with respect to violations occurring on or after the date of enactment.

REASON FOR CHANGE

This provision would enhance a judge's ability to compensate the programs and punish persons convicted of violations including, but not limited to, improper receipt of Social Security payments and misuse of Social Security numbers.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Section 301. Cap on Attorney Representative Assessments

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires the SSA to pay attorney fees for Title II claims directly to the attorney out of the claimant's past-due benefits. The SSA charges an assessment, at a rate not to exceed 6.3% of approved attorney fees, for the costs of determining, processing, withholding, and distributing attorney fees.

EXPLANATION OF PROVISION

The new provision imposes a cap of $75 on the 6.3% assessment on approved attorney representative fees for Title II claims. The cap is indexed annually for inflation. This provision is effective after 180 days after the date of enactment.

REASON FOR CHANGE

Testimony was given at a House oversight hearing in May 2001 on the SSA's processing of attorney representative's fees that the amount of the fee assessment is unfair to these attorneys, who provide an important service to claimants. The attorneys who receive fee payments from the agency have their gross revenue reduced by 6.3%. As a result of this revenue loss and the time it takes for the SSA to issue the fee payments to attorneys, a number of attorneys have decided to take fewer or none of these cases. The cap on the amount of the assessment would help ensure that enough attorneys remain available to represent claimants before the Social Security Administration.

The Committee on Ways and Means continues to be concerned about the agency's processing time for attorney representatives fee payments and expects the SSA to further automate the payment process as soon as possible.

Section 302. Extension of Attorney Fee Payment System to Title XVI Claims

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires attorney fees for Title II claims to be paid by the SSA directly to the attorney out of the claimant's past-due benefits (subject to an assessment to cover the SSA's costs). However, attorney fees for Title XVI claims are not paid directly by the SSA out of past-due benefits. Instead, the attorney must collect the fee from the beneficiary.

EXPLANATION OF PROVISION

The provision would extend direct fee payment to attorneys out of past-due benefits

for Title XVI claims. It would also authorize the SSA to charge a processing assessment of up to 6.3% of the approved attorney fees, subject to a cap of $75 that is indexed for inflation.

In addition, in cases where the States would be reimbursed for interim assistance they had provided to a beneficiary awaiting a decision on a claim for SSI benefits, the State would be paid first, and the attorney would be paid second out of the past-due benefit amount.

The provision also requires the General Accounting Office to conduct a study of claimant representation in the Social Security and Supplemental Security Income programs. The study will include an evaluation of the potential results of extending the fee withholding process to non-attorney representatives.

This provision applies with respect to fees for representation that are first required to be certified or paid on or after the first day of the first month that begins after 270 days after the date of enactment. The provision would sunset with respect to respect to agreements for representation entered into after 5 years after the implementation date. The GAO report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of enactment.

REASON FOR CHANGE.

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

Payment of States first and attorneys second would ensure that States providing interim assistance to individuals would not receive less reimbursement, while also providing a method of ensuring that attorneys receive payment and continue to provide representation.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

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

Section 401. Application of Demonstration Authority Sunset Date to New Projects

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. These projects can test: (1) alternative methods of treating work activity of individuals entitled to disability benefits; (2) the alteration of other limitations and conditions that apply to such individuals (such as an increase in the length of the trial work period); and, (3) implementation of sliding scale benefit offsets. To conduct the projects, the Commissioner may waive compliance with the benefit requirements of Title II and Section 1148, and the HHS Secretary may waive the benefit requirements of Title XVIII. The Commissioner's authority to conduct demonstration projects terminates on December 17, 2004, five years after its enactment in the ''Ticket to Work and Work Incentives Improvement Act of 1999'' (P.L. 106–170, ''Ticket to Work Act'').

EXPLANATION OF PROVISION

The new provision clarifies that the Commissioner is authorized to conduct demonstration projects that extend beyond December 17, 2004, if such projects are initiated on or before that date (i.e., initiated within the five-year window after enactment of the Ticket to Work Act). This provision is effective upon enactment.

REASON FOR CHANGE

The current five-year limitation on waiver authority restricts the options that may be tested to improve work incentives and return to work initiatives, as several potential options the Commissioner may test would extend past the current five-year limit. Developing a well-designed demonstration project can require several years, and the current five-year authority might not allow sufficient time to both design the project and to conduct it long enough to obtain reliable data.

Section 402. Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. In addition, Section 302 of the Ticket to Work Act directs the Commissioner to conduct demonstration projects for the purpose of evaluating a program for Title II disability beneficiaries under which benefits are reduced by $1 for each $2 of the beneficiary's earnings above a level determined by the Commissioner. To permit a thorough evaluation of alternative methods, section 302 of the Ticket to Work Act allows the Commissioner to waive compliance with the benefit provisions of Title II and allows the Secretary of Health and Human Services to waive compliance with the benefit requirements of Title XVIII.

EXPLANATION OF PROVISION

The new provision allows the Commissioner to also waive requirements in Section 1148 of the Social Security Act, which governs the Ticket to Work and Self-Sufficiency Program (Ticket to Work Program), as they relate to Title II. This provision is effective upon enactment.

REASON FOR CHANGE

This additional waiver authority is needed to allow the Commissioner to effectively test the $1-for-$2 benefit offset in combination with return to work services under the Ticket to Work Program. Under the $1-for-$2 benefit offset, earnings of many beneficiaries may not be sufficient to completely eliminate benefits. However, under section 1148 of the Social Security Act, benefits must be completely eliminated before employment networks participating in the Ticket to Work Program are eligible to receive outcome payments. Therefore, employment networks are likely to be reluctant to accept tickets from beneficiaries participating in the $1-for-$2 benefit offset demonstration, making it impossible for the SSA to effectively test the combination of the benefit offset and these return to work services. Additionally, section 1148 waiver authority was provided for the broad Title II disability demonstration authority under section 234 of the Social Security Act, but not for this mandated project.

Section 403. Funding of Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

PRESENT LAW

The Ticket to Work Act provides that the benefits and administrative expenses of conducting the $1-for-$2 demonstration projects will be paid out of the Old-Age, Survivors, and Disability Insurance (OASDI) and Federal Hospital Insurance and Federal Supplementary Medical Insurance (HI/SMI) trust funds, to the extent provided in advance in appropriations act.

EXPLANATION OF PROVISION

The new provision establishes that administrative expenses for the $1-for-$2 demonstration project will be paid out of otherwise available annually-appropriated funds, and that benefits associated with the demonstration project will be paid from the OASDI or HI/SMI trust funds. This provision is effective upon enactment.

REASON FOR CHANGE

For demonstration projects conducted under the broader Title II demonstration project authority under section 234 of the Social Security Act, administrative costs are paid out of otherwise available annually appropriated funds, and benefits associated with the demonstration projects are paid from the OASDI or HI/SMI trust funds. This provision would make funding sources for the $1 for $2 demonstration project under the Ticket to Work Act consistent with funding sources for other Title II demonstration projects.

Section 404. Availability of Federal and State Work Incentive Services to Additional Individuals

PRESENT LAW

Section 1149 of the Social Security Act (the Act), as added by the Ticket to Work Act, directs the SSA to establish a community-based work incentives planning and assistance program to provide benefits planning and assistance to disabled beneficiaries. To establish this program, the SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. In fulfillment of this requirement, the SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) program. BPAO projects now exist in every state.

Section 1150 of the Act authorizes the SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. Under this section, services provided by participating P&A systems may include: (1) information and advice about obtaining vocational rehabilitation (VR) and employment services; and (2) advocacy or other services that a disabled beneficiary may need to secure or regain employment. The SSA has established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

To be eligible for services under either the BPAO or PABSS programs, an individual must be a ''disabled beneficiary'' as defined under section 1148(k) of the Act. Section 1148(k) defines a disabled beneficiary as an individual entitled to Title II benefits based on disability or an individual who is eligible for federal SSI cash benefits under Title XVI based on disability or blindness.

EXPLANATION OF PROVISION

The new provision expands eligibility for the BPAO and PABSS programs under sections 1149 and 1150 of the Act to include not just individuals who are ''disabled beneficiaries'' under section 1148(k) of the Act, but also individuals who (1) are no longer eligible for SSI benefits because of an increase in earnings, but remain eligible for Medicaid under section 1619(b); (2) receive only a State supplementation payment (a payment that some States provide as a supplement to the federal SSI benefit); or (3) are in an extended period of Medicare eligibility under Title XVIII after a period of Title II disability has ended. The new provision also expands the types of services a P&A system may provide under section 1150 of the Act. Currently P&A systems may provide ''advocacy or other services that a disabled beneficiary may need to secure or regain employment,'' while the new provision allows them to provide ''advocacy or other services that a disabled beneficiary may need to secure, maintain, or regain employment.''

The amendment to section 1149, which affects the BPAO program, is effective with respect to grants, cooperative agreements or contracts entered into on or after the date of enactment. The amendments to section 1150, which affect the PABSS program, are effective for payments provided after the date of the enactment.

REASON FOR CHANGE

The Committee on Ways and Means recognizes that Social Security and SSI beneficiaries with disabilities face a variety of barriers and disincentives to becoming employed and staying in their jobs. The intent of this provision, as with the Ticket to Work Act, is to encourage disabled individuals to work.

The definition of ''disabled beneficiary'' under section 1148(k) of the Act does not include several groups of beneficiaries, including individuals who are no longer eligible for SSI benefits because of an earnings increase but remain eligible for Medicaid under section 1619(b); individuals receiving only a State supplementation payment; and individuals who are in an extended period of Medicare eligibility. The Committee on Ways and Means believes that BPAO and PABSS services should be available to all of these disabled beneficiaries regardless of Title II or SSI payment status. Beneficiaries may have progressed beyond eligibility for federal cash benefits, but may still need information about the effects of work on their benefits, or may need advocacy or other services to help them maintain or regain employment. Extending eligibility for the BPAO and PABSS programs to beneficiaries who are receiving a State supplementation payment or are still eligible for Medicare or Medicaid, but who are no longer eligible for federal cash benefits, will help to prevent these beneficiaries from returning to the federal cash benefit rolls and help them to reach their optimum level of employment.

The Committee on Ways and Means also intends that PABSS services be available to provide assistance to beneficiaries who have successfully obtained employment but who continue to encounter job-related difficulties. Therefore, the new provision extends the current PABSS assistance (which is available for securing and regaining employment) to maintaining employment—thus providing a continuity of services for disabled individuals throughout the process of initially securing employment, the course of their being employed and, if needed, their efforts to regain employment. This provision would ensure that disabled individuals would not face a situation in which they would have to wait until they lost their employment in order to once again be eligible to receive PABSS services. Payments for services to maintain employment would be subject to Section 1150(c) of the Social Security Act. The Committee on Ways and Means will continue to monitor the implementation of PABSS programs to ensure that assistance is directed to all areas in which beneficiaries face obstacles in securing, maintaining, or regaining work.

Section 405. Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans Under the Ticket to Work and Self-Sufficiency Program

PRESENT LAW

Under section 51 of the Internal Revenue Code (IRC), employers may claim a Work Opportunity Tax Credit (WOTC) if they hire, among other individuals, individuals with disabilities who have been referred by a State vocational rehabilitation (VR) agency. For an individual to qualify as a vocational rehabilitation referral under section 51(d)(6)(B) of the IRC, the individual must be receiving or have completed vocational rehabilitation services pursuant to: (i) ''an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973;'' or (ii) ''a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.'' (IRC, section 51(d)(6)(B).

The WOTC is equal to 40% of the first $6,000 of wages paid to newly hired employees during their first year of employment when the employee is retained for at least 400 work hours. As such, the maximum credit per employee is $2,400, but the credit may be less depending on the employer's tax bracket. A lesser credit rate of 25% is provided to employers when the employee remains on the job for 120–399 hours. The amount of the credit reduces the company's deduction for the employee's wages.

The Ticket to Work Act established the Ticket to Work and Self-Sufficiency Program (Ticket to Work Program) under section 1148 of the Social Security Act. Under this program, the SSA provides a ''ticket'' to eligible Social Security Disability Insurance beneficiaries and Supplemental Security Income beneficiaries with disabilities that allows them to obtain employment and other support services from an approved ''employment network'' of their choice. Employment networks may include State, local, or private entities that can provide directly, or arrange for other organizations or entities to provide, employment services, VR services, or other support services. State VR agencies have the option of participating in the Ticket to Work Program as employment networks. Employment networks must work with each beneficiary they serve to develop an individual work plan (IWP) for that beneficiary that outlines his or her vocational goals and the services needed to achieve those goals. For VR agencies that participate in the Ticket to Work Program, the individualized written plan for employment (as specified under (i) in paragraph one above) serves in lieu of the IWP.

Under current law, an employer hiring a disabled individual referred by an employment network does not qualify for the WOTC unless the employment network is a State VR agency.

EXPLANATION OF PROVISION

The new provision allows employers who hire disabled workers through referrals by employment networks under section 1148 of the Social Security Act to qualify for the WOTC. Specifically, it provides that, for purposes of section 51(d)(6)(B)(i) of the IRC of 1986, an IWP under section 1148 of the Social Security Act shall be treated as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.

This provision is effective as if it were included in section 505 of the Ticket to Work Act.

REASON FOR CHANGE

The Ticket to Work Program was designed to increase choice available to beneficiaries when they select providers of employment services. Employers hiring individuals with disabilities should be able to qualify for the WOTC regardless of whether the employment referral is made by a public or private service provider. This amendment updates eligibility criteria for the WOTC to conform to the expansion of employment services and the increase in number and range of VR providers as a result of the enactment of the Ticket to Work Act.

Subtitle B—Miscellaneous Amendments

Section 411. Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

PRESENT LAW

The Social Security Act requires the SSA to file a hearing transcript with the District Court for any SSA hearing that follows a court remand of a SSA decision.

EXPLANATION OF PROVISION

The new provision clarifies that the SSA is not required to file a transcript with the court when the SSA, on remand, issues a decision fully favorable to the claimant. This provision is effective with respect to final determinations issued (upon remand) on or after the date of enactment.

REASON FOR CHANGE

A claimant whose benefits have been denied is provided a transcript of a hearing to be used when the claimant appeals his case in Federal District court. If the Administrative Law Judge issued a fully favorable decision, then transcribing the hearing is unnecessary since the claimant would not appeal this decision.

Section 412. Nonpayment of Benefits Upon Removal From the United States

PRESENT LAW

In most cases, the Social Security Act prohibits the payment of Social Security benefits to non-citizens who are deported from the United States. However, the Act does not prohibit the payment of Social Security benefits to non-citizens who are deported for smuggling other non-citizens into the United States.

EXPLANATION OF PROVISION

The new provision requires the SSA to suspend benefits of beneficiaries who are removed from the United States for smuggling aliens. This provision applies with respect to removals occurring after the date of enactment.

REASON FOR CHANGE

Individuals who are removed from the United States for smuggling aliens have committed an act that should prohibit them for receiving Social Security benefits.

Section 413. Reinstatement of Certain Reporting Requirements

PRESENT LAW

The Federal Reports Elimination and Sunset Act of 1995 ''sunsetted'' most annual or periodic reports from agencies to Congress that were listed in a 1993 House inventory of congressional reports.

EXPLANATION OF PROVISION

The new provision reinstates the requirements for several periodic reports to Congress that were subject to the 1995 ''sunset'' Act, including annual reports on the financial solvency of the Social Security and Medicare programs (the Board of Trustees' reports on the OASDI, HI, and SMI trust funds) and annual reports on certain aspects of the administration of the Title II disability program (the SSA Commissioner's reports on pre-effectuation reviews of disability determinations and continuing disability reviews). The provision is effective upon enactment.

REASON FOR CHANGE

The reports to be reinstated provide Congress with important information needed to evaluate and oversee the Social Security and Medicare programs.

Section 414. Clarification of Definitions Regarding Certain Survivor Benefits

PRESENT LAW

Under the definitions of ''widow'' and ''widower'' in Section 216 of the Social Security Act, a widow or widower must have been

married to the deceased spouse for at least nine months before his or her death in order to be eligible for survivor benefits.

EXPLANATION OF PROVISION

The new provision creates an exception to the nine-month requirement for cases in which the Commissioner finds that the claimant and the deceased spouse would have been married for longer than nine months but for the fact that the deceased spouse was legally prohibited from divorcing a prior spouse who was institutionalized due to mental incompetence or similar incapacity. The provision is effective for benefit applications filed after the date of enactment.

REASON FOR CHANGE

This provision allows the Commissioner to issue benefits in certain unusual cases in which the duration of marriage requirement could not be met due to a legal impediment over which the individual had no control and the individual would have met the legal requirements were it not for the legal impediment.

Section 415. Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings are Subject to the Laws of a Totalization Agreement Partner

PRESENT LAW

In cases where there is an agreement with a foreign country (i.e., a totalization agreement), a worker's earnings are exempt from United States Social Security payroll taxes when those earnings are subject to the foreign country's retirement system.

EXPLANATION OF PROVISION

The new provision clarifies the legal authority to exempt a worker's earnings from United States Social Security tax in cases where the earnings were subject to a foreign country's retirement system in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions on those earnings. The provision establishes that such earnings are exempt from United States Social Security tax whether or not the worker elected to make contributions to the foreign country's retirement system.

The provision is effective upon enactment.

REASON FOR CHANGE

In U.S. totalization agreements, a person's work is generally subject to the Social Security laws of the country in which the work is performed. In most cases, the worker (whether subject to the laws of the United States or the other country) is compulsorily covered and required to pay contributions in accordance with the laws of that country. In some instances, however, work that would be compulsorily covered in the U.S. is excluded from compulsory coverage in the other country (such as Germany). In such cases, the IRS has questioned the exemption from U.S. Social Security tax for workers who elect not to make contributions to the foreign country's retirement system. This provision would remove any question regarding the exemption and would be consistent with the general philosophy behind the coverage rules of totalization agreements.

Section 416. Coverage Under Divided Retirement System for Public Employees in Kentucky

PRESENT LAW

Under Section 218 of the Social Security Act, a State may choose whether or not its State and local government employees who are covered by a public pension may also participate in the Social Security Old-Age, Survivors, and Disability Insurance program. (In this context, the term ''public pension plan'' refers to a pension, annuity, retirement, or similar fund or system established by a State or a political subdivision of a State such as a town. Under current law, State or local government employees not covered by a public pension plan are, with a few exceptions, required to pay Social Security payroll taxes.)

Social Security coverage for employees covered under a State or local government public pension plan is established through an agreement between the State and the federal government. All States have the option of electing Social Security coverage for employees by a majority vote in a referendum. If the majority vote is in favor of Social Security coverage, then the entire group, including those voting against such coverage, will be covered by Social Security. If the majority vote is against Social Security coverage, then the entire group, including those voting in favor of such coverage and employees hired after the referendum, will not be covered by Social Security.

In certain States, however, there is an alternative method for electing Social Security coverage. Under this method, rather than the majority of votes determining Social Security coverage for the whole group, employees voting in the referendum may individually determine whether they want Social Security coverage, provided that all newly hired employees of the system are required to participate in Social Security. After the referendum, the retirement system is divided into two groups, one composed of members who elected Social Security coverage plus those hired after the referendum, and the other composed of those who did not elect Social Security coverage. Under Section 218(d)(6)(c) of the Social Security Act, 21 states currently have authority to operate such a divided retirement system.

EXPLANATION OF PROVISION

The new provision permits the state of Kentucky to join the 21 other states in being able to offer a divided retirement system. This system would permit current state and local government workers in a public pension plan to elect Social Security coverage on an individual basis. Those who do not wish to be covered by Social Security would continue to participate exclusively in the public pension plan. This provision is effective retroactively to January 1, 2003.

REASON FOR CHANGE

The governments of the City of Louisville and Jefferson County merged in January 2003, and formed a new political subdivision. Under the provision, once the new political subdivision holds a referendum on Social Security coverage among its employees, each employee would choose whether or not to participate in the Social Security system in addition to their public pension plan. All employees newly hired to the system after the divided system is in place would be covered automatically under Social Security.

Currently, some employees of the new government are covered under Social Security, while others are not. In order to provide fair and equitable coverage to all employees, a divided retirement system, such as that currently authorized in 21 other states, was seen as the best solution. It would allow those who want to keep Social Security coverage or obtain Social Security coverage to do so, without requiring other current employees to participate in Social Security as well.

Without this provision, upon holding a referendum on Social Security coverage, a majority of votes would determine whether or not the group would participate in Social Security. Since the number of non-covered employees exceeds the number of Social Security-covered employees in the new government, those employees currently covered by Social Security could lose that coverage. The Kentucky General Assembly has adopted a bill that will allow the new divided retirement system to go forward following enactment of this provision.

Section 417. Compensation for the Social Security Advisory Board

PRESENT LAW

The Social Security Advisory Board is an independent, bipartisan Board established by the Congress under section 703 of the Social Security Act. The 7-member board is appointed by the President and the Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs. Section 703(f) of the Social Security Act provides that members of the Board serve without compensation, except that, while engaged in Board business away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government who are employed intermittently.

EXPLANATION OF PROVISION

The new provision establishes that compensation for Social Security Advisory Board members will be provided, at the daily rate of basic pay for level IV of the Executive Schedule, for each day (including travel time) during which the member is engaged in performing a function of the Board. This provision is effective on January 1, 2003.

REASONS FOR CHANGE

Other government advisory boards—such as the Employee Retirement Income Security Act Advisory Council, the Pension Benefit Guaranty Corporation Advisory Committee and the Thrift Savings Plan Board—provide compensation for their members. This provision allows for similar treatment of Social Security Advisory Board members with respect to compensation.

Seciton 418. 60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

PRESENT LAW

The Government Pension Offset (GPO) was enacted in order to equalize treatment of workers in jobs not covered by Social Security and workers in jobs covered by Social Security, with respect to spouse and survivor benefits. Where what is known as the ''dual-entitlement'' rule reduces a spouse or survivor benefit dollar-for-dollar by the worker's own Social Security retirement or disability benefit, the GPO reduces the Social Security spouse or survivor benefit by two-thirds of the government pension.

However, under what's know as the ''last day rule,'' State and local government workers are exempt from the GPO if, on the last day of employment, their job was covered by Social Security. In contrast, Federal workers who switched from the Civil Service Retirement System (CSRS), a system that is not covered by Social Security, to the Federal Employee Retirement System (FERS), a system that is covered by Social Security, must work for 5 years under FERS in order to be exempt from the GPO.

EXPLANATION OF PROVISION

The new provision requires that State and local government workers be covered by Social Security during their last 5 years of employment in order to be exempt from the GPO. The provision is effective for applications filed on or after the first day of the first month after the date of enactment. However, the provision would not apply to individuals whose last day of employment for the State or local governmental entity occurred before the end of the 90-day period following the date of enactment. It would also not apply to person whose last day of

employment occurred after the end of the 90-day period following the date of enactment, if during the 90-day period following the date of enactment the person's job was covered by Social Security and remained so until their last day of employment.

REASON FOR CHANGE

In August 2002, the GAO published a report titled ''Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered'' (GAO–02–950). At the request of Committee on Ways and Means, Subcommittee on Social Chairman E. Clay Shaw, Jr., the GAO investigated use of the ''last day'' exemption to avoid being subject to the GPO. The investigation found that over 4,800 individuals in Texas and Georgia used the last day exemption, with over 3,500 in Texas using it in 2002.

In testimony provided to the Subcommittee on Social Security February 27, 2003, the GAO stated that the exemption ''allows a select group of individuals with a relatively small investment of work time and only minimal Social Security contributions to gain access to potentially many years of full Social Security spousal benefits.'' GAO also clarified in testimony that a spouse who worked in the private sector, paid payroll taxes for an entire career, and earned a Social Security retirement or disability benefit as a worker would not receive a full spousal benefit. The GAO stated that current usage of last day exemption could cost the Social Security trust funds $450 million, and that considering the potential for abuse of the exemption and the likelihood of increased use, timely action is needed. This provision to conform their treatment to that of federal workers was among the recommendations provided by the GAO to address potential abuse of the exemption. A provision addressing the GPO last-day exemption was also included in President Bush's budget request for 2004.

Subtitle C—Technical Amendments

Section 421. Technical Correction Relating to Responsible Agency Head

PRESENT LAW

Section 1143 of the Social Security Act directs ''the Secretary of Health and Human Services'' to send periodic Social Security Statements to individuals.

EXPLANATION OF PROVISION

The new provision makes a technical correction to this section by inserting a reference to the Commissioner of Social Security in place of the reference to the Secretary of Health and Human Services. This provision is effective upon enactment.

REASON FOR CHANGE

The ''Social Security Independence and Program Improvements Act of 1994'' (P.L. 103–296) made the Social Security Administration an independent agency separate from the Department of Health and Human Services. This provision updates Section 1143 to reflect that change.

Section 422. Technical Correction Relating to Retirement Benefits of Ministers

PRESENT LAW

Section 1456 of the ''Small Business Job Protection Act of 1996'' (P.L. 104–188) established that certain retirement benefits received by ministers and members of religious orders (such as the rental value of a parsonage or parsonage allowance) are not subject to Social Security payroll taxes under the Internal Revenue Code. However, under Section 211 of the Social Security Act, these retirement benefits are treated as net earnings from self-employment for the purpose of acquiring insured status and calculating Social Security benefit amounts.

EXPLANATION OF PROVISION

The new provision makes a conforming change to exclude these benefits received by retired clergy from Social Security-covered earnings for the purpose of acquiring insured status and calculating Social Security benefit amounts. This provision is effective for years beginning before, on, or after December 31, 1994. This effective date is the same as the effective date of Section 1456 of P.L. 104–188.

REASON FOR CHANGE

P.L. 104–188 provided that certain retirement benefits received by ministers and members of religious orders are not subject to payroll taxes. However, a conforming change was not made to the Social Security Act to exclude these benefits from being counted as wages for the purpose of acquiring insured status and calculating Social Security benefit amounts. This income is therefore not treated in a uniform manner. This provision would conform the Social Security Act to the Internal Revenue Code with respect to such income.

Section 423. Technical Correction Relating to Domestic Employment

PRESENT LAW

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

EXPLANATION OF PROVISION

The new provision clarifies that domestic service on a farm is treated as domestic employment, rather than agricultural labor, for Social Security coverage and tax purposes. This provision is effective upon enactment.

REASON FOR CHANGE

Prior to 1994, domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural labor. According to the SSA, in 1994, when congress amended the law with respect to domestic employment, the intent was that domestic employment on a farm would be subject to the coverage threshold for domestic employees instead of the threshold for agricultural labor. However, the current language is unclear, making it appear as if farm domestics are subject to both threshold.

Section 424. Technical Correction of Outdated References

PRESENT LAW

Section 202(n) and 211(a)(15) of the Social Security Act and Section 3102(a) of the Internal Revenue Code of 1986 each contain outdated references that relate to the Social Security program.

EXPLANATION OF PROVISION

The new provision corrects outdated references in the Social Security Act and the Internal Revenue Code by: (1) in Section 202(n) of the Social Security Act, updating references respecting removal from the United States; (2) in Section 211(a)(15) of the Social Security Act, correcting a citation respecting a tax deduction related to health insurance cost of self-employed individuals; and (3) in Section 3102(a) of the Internal Revenue Code of 1986, eliminating a reference to an obsolete 20-day agricultural work test. This provision is effective upon enactment.

REASON FOR CHANGE

Over the years, provisions in the Social Security Act, the Internal Revenue Code and other related laws have been deleted, re-designated or amended. However, necessary conforming changes have not always been made. Consequently, Social Security law contains some outdated references.

Section 425. Technical Correction Respecting Self-Employment Income in Community Property States

PRESENT LAW

The Social Security Act and the Internal Revenue Code provide that, in the absence of a partnership, all self-employment income from a trade or business operated by a married person in a community property State is deemed to be the husband's unless the wife exercises substantially all of the management and control of the trade or business.

EXPLANATION OF PROVISION

Under the new provision, self-employment income from a trade or business that is not a partnership, and that is operated by a married person in a community property State, is taxed and credited to the spouse who is carrying on the trade or business. If the trade or business is jointly operated, the self-employment income is taxed and credited to each spouse based on their distributive share of gross earnings. This provision is effective upon enactment.

REASON FOR CHANGE

Present law was found to be unconstitutional in several court cases in 1980. Since, then, income from a trade or business that is not a partnership in a community property State has been treated the same as income from a trade or business that is not a partnership in a non-community property State—it is taxed and credited to the spouse who is found to be carrying on the business.

This change will conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States.

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

DISABILITY ADVOCATES

National Alliance for the Mentally Ill.

Consortium for Citizens with Disabilities.

ATTORNEY ORGANIZATIONS

National Organization of Social Security Claimants' Representatives.

ADMINISTRATIVE LAW JUDGES

Association of Administrative Law Judges.

LAW ENFORCEMENT

Grand Lodge Fraternal Order of Police.

Fraternal Order of Police, Louisville Lodge 6.

Long Beach, CA Police—Chief of Police.

Wayne County, MI (includes Detroit)—Sheriff.

Chartiers Township Police—Houston, PA—Chief of Police.

Borough of Churchill Police—Pittsburgh, PA—Chief of Police.

Brecknock Township Police—Mohnton, PA—Chief of Police.

Milton, PA Police—Chief of Police.

AARP,
Washington, DC, March 5, 2003.

Hon. ROBERT MATSUI,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MATSUI: On behalf of AARP and its 35 million members, I wish to commend you and Representative Shaw for introducing H.R. 743, the ''Social Security Program Protection Act of 2003.'' This comprehensive legislation is important to claimants, beneficiaries and the overall Social Security program.

We are pleased that the legislation would protect beneficiaries against abuses by representative payees. For many years, AARP recruited volunteers as representative payees so that Social Security beneficiaries who

needed a representative payee but could not find one would not lose any benefits. These programs were quite successful but were limited in scope.

AARP has had a longstanding interest in curbing deceptive mailings targeted at older Americans. This legislation builds upon prior legislation and could discourage other mailers from scaring older people about their Social Security and Medicare benefits.

The legislation would strengthen the Ticket to Work Act and conduct pilot projects to improve work incentives for those with a disability. These changes would send a strong signal that our society values the contributions of all its citizens.

Thank you again for your leadership in moving H.R. 743 in the House.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

NAMI,
Arlington, VA, March 3, 2003.

Hon. E. CLAY SHAW,
Chairman, Subcommittee on Social Security, Committee on Ways & Means, House of Representatives, Washington, DC.

DEAR CHAIRMAN SHAW: On behalf of the 220,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI) I am writing to offer our support and urge swift House consideration of HR 743, the Social Security Protection Act of 2003. As the nation's largest organization representing individuals with severe mental illnesses and their families, NAMI urges the House to pass this bipartisan legislation to protect the interests of vulnerable beneficiaries of Social Security's disability income and support programs.

HR 743 is the product of near universal bipartisan support. This legislation contains many long overdue protections for the most disabled and vulnerable Americans and their families. As you know, individuals with severe mental illnesses represent a large and growing percentage of Social Security's cash assistance benefit programs (SSI and SSDI). The beneficiary protections and program integrity provisions in HR 743 will help ensure that the performance of the SSI and SSDI programs improve. Of particular to NAMI are the sections in HR 743 that will provide badly needed protections for recipients whose benefits are mishandled or fraudulently diverted by institutional representative payees. NAMI is especially supportive of these protections given the high percentage of SSI beneficiaries with severe persistent mental illnesses who receive benefits through a representative payee.

NAMI is also pleased with provisions in HR 743 that will require Social Security to issue receipts to SSDI beneficiaries when they forward earnings reports to agency. This new protection will be of tremendous help to SSDI beneficiaries seeking to use the Trial Work Period program to re-enter the workforce. Finally, NAMI is pleased that HR 743 contains needed technical corrections to improve with the implementation of the 1999 Ticket to Work and Work incentives Improvement Act (TWWIIA).

HR 743 is the product of years of bipartisan work. Similar legislation passed the House 425–0 and cleared the Senate without dissent in the 107th Congress. In NAMI's view, the House should act swiftly in 2003 to pass this important legislation that everyone agrees is needed to protect people with severe disabilities that rely on SSI and SSDI benefits for their most basic needs.

Sincerely,

RICHARD C. BIRKEL, Ph.D.,
Executive Director.

CONSORTIUM FOR
CITIZENS WITH DISABILITIES,
Washington, DC, March 4, 2003.

Hon. E. CLAY SHAW,
Hon. ROBERT MATSUI,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVES SHAW AND MATSUI: On behalf of the Consortium for Citizens with Disabilities Task Forces on Social Security and Work Incentives Implementation, we are writing to express our support for the speedy passage of H.R. 743, the Social Security Protection Act of 2003.

We appreciate the hard work and the perseverance of the Subcommittee on Social Security in addressing this important legislation over the course of two Congresses and again in this 108th Congress. Your leadership and commitment last year resulted in the passage of the Social Security Program Protection Act of 2002, H.R. 4070, in the House by a vote of 425 to 0. Clearly, the issues addressed in the bipartisan Social Security Protection Act are important to people with disabilities who must depend on the Title II and Title XVI disability programs. We urge House passage of H.R. 743.

H.R. 743 is a very important bill for people with disabilities. We believe that it should be enacted as soon as possible. People with disabilities need the protections of the representative payee provisions. People with disabilities who are attempting to work need the statutory changes to the Ticket to Work program in order to better utilize the intended work incentive provisions enacted in 1999. In addition, beneficiaries with disabilities need the provision requiring the Social Security Administration to issue written receipts, and to implement a centralized computer file record, whenever beneficiaries report earnings or a change in work status. These important provisions have not been controversial—in fact, they have enjoyed significant bipartisan support—and have simply fallen prey to the legislative process over the last two Congresses. We appreciate your interest in moving H.R. 743 quickly so that these important protections can become available to beneficiaries as soon as possible.

One of the most important sections of H.R. 743 for people with disabilities is the section dealing with improved protections for beneficiaries who need representative payees. Approximately 6 million Social Security and Supplemental Security Income beneficiaries have representative payees, often family members or friends, who receive the benefits on their behalf and have a responsibility to manage the benefits on behalf of the beneficiaries.

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

Require non-governmental fee-for-services organizational representative payees to be bonded and licensed under state or local law;

Provide that when an organization has been found to have misused an individual's benefits, the organization would not qualify for the fee;

Allow SSA to re-issue benefits to beneficiaries whose funds had been misused;

Allow SSA to treat misused benefits as ''overpayments'' to the representative payee, thereby triggering SSA's authority to recover the money through tax refund offsets, referral to collection agencies, notifying credit bureaus, and offset of any future federal benefits/payments; and

Require monitoring of representative payees, including monitoring of organizations over a certain size and government agencies serving as representative payees.

In addition, H.R. 743 would extend the direct payment of attorneys fees in SSI cases on a voluntary basis. Advocates believe that such a program will make legal representation more accessible for people with disabilities who need assistance in handling their cases as they move through the extremely complex disability determination and appeals systems.

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security and Work Incentives Implementation Task Forces focus on disability policy issues in the Title XVI Supplemental Security Income program and the Title II disability programs. We look forward to the House passage and final enactment of H.R. 743.

Sincerely,

Co-chairs, Social Security and Work Incentives Implementation Task Forces

MARTY FORD
The Arc and UCP Public Policy Collaboration.

ETHEL ZELENSKE
National Organization of Social Security Claimants' Representatives.

CHERYL BATES-HARRIS
National Association of Protection and Advocacy Systems.

SUSAN PROKOP
Paralyzed Veterans of America.

MELANIE BRUNSON
American Council of the Blind.

PAUL SEIFERT
International Association of Psychosocial Rehabilitation Services.

NATIONAL ORGANIZATION OF SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES,
Midland Park, NJ, February 26, 2003.

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

DEAR MR. CHAIRMAN: On behalf of the National Organization of Social Security Claimants' Representatives (''NOSSCR''), we offer our support for the important goals of H.R. 743, the Social Security Protection Act of 2003.

Specifically, we support the protections in Title I for beneficiaries who have representative payees and support provisions which, for the first time, require the Social Security Administration to issue receipts to beneficiaries when they report earnings or a change in work status. Additionally, Title III of this measure contains two important provisions NOSSCR strongly supports. These provisions are designed to ensure access to legal representation for those Social Security and Supplemental Security Income (''SSI'') claimants who seek to be represented as they pursue their claims and appeals. First, the bill limits the assessment of the user fee to $75.00 or 6.3 percent, whichever is lower. Second, the bill extends the current Title II fee withholding and direct payment procedure to the Title XVI program, giving SSI claimants the same access to representation as is currently available to Social Security disability claimants. Together, these provisions make changes that will help claimants obtain representation as they navigate what can often be confusing and difficult process.

We are dismayed, however, by the addition of a sunset provision for the extension of withholding to the Title XVI program. Enactment of an attorneys' fee payment system with an ''end date'' will undercut its very purpose: to enable more SSI claimants seeking a lawyer to hire one. The sunset provision shortchanges SSI claimants who desire legal representation. We are not aware

of any policy justification for this provision, and we urge its deletion from the bill.

NOSSCR appreciates your continued interest in improving the Social Security and SSI programs and ensuring the best possible service delivery. We look forward to your Subcommittee's consideration of this legislation.

Very truly yours,

NANCY G. SHOR,
Executive Director.

ASSOCIATION OF
ADMINISTRATIVE LAW JUDGES,
Milwaukee, WI, February 28, 2003.

Re: The Social Security Protection Act of 2003 (HR 743).

Hon. CLAY SHAW, Jr.,
Chairperson, Subcommittee on Social Security, Washington, DC.

DEAR CHAIRPERSON SHAW: I write on behalf of the Association of Administrative Law Judges. We represent about 1000 administrative law judges in the Social Security Administration and in the Department of Health and Human Services which comprise about 80% of the administrative law judges in the Federal government. I am writing in regard to H.R. 743, a bill to provide additional safeguards for Social Security and Supplement Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

We support the goals of H.R. 743. In particular, we support the attorney fee payment system improvements provided for in the bill, but we believe that the legislation should not include any ''sunset'' provisions. We further support the provisions in the legislation for the elimination of transcript requirements in remand cases fully favorable to the claimant.

We also favor the provision in the legislation that directs the Social Security Administration to issue receipts to acknowledge submissions of earnings by beneficiaries.

Thank you for your work on this important legislation.

Sincerely,

RONALD G. BERNOSKI,
President.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, January 10, 2003.

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

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our strong support for H.R. 134, which would add Kentucky to the list of those States permitted to operate a separate retirement system for certain public employees.

As you know, in November of 2000, the citizens of Jefferson County and the City of Louisville, Kentucky voted to merge their communities and respective governments into a single entity, known as Greater Louisville. This merger went into effect on 6 January 2003. Jefferson County and the City of Louisville operated two very different retirement programs for their police officers and, now that the merger has occurred, Federal law requires the new government to offer a single retirement plan. We share your concern that this requirement may dramatically increase the cost of retirement for the public safety officers who now serve Greater Louisville, and thus jeopardize the retirement security of many of the community's police, fire, and emergency personnel.

The Kentucky State Lodge of the Fraternal Order of Police has been successful in its effort in the State's General Assembly and now need the Federal government to act by adding Kentucky to the list of twenty-one (21) States permitted to operate what is known as a ''divided retirement system.'' This will allow the police officers of Greater Louisville to decide for themselves whether or not they want to participate in Social Security or remain in their traditional retirement plan. While future employees will be automatically enrolled in Social Security, no current officers would be forced into a new retirement system as a result of the merger.

It is critical that the Congress act quickly on this matter. The F.O.P. is ready to assist you in getting this bill through the House expeditiously.

On behalf of the more than 300,000 members of the Fraternal Order of Police, I want to thank you for your hard work on this effort. Please let us know how we can be of further assistance by contacting me or Executive Director Jim Pasco through my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

FRATERNAL ORDER OF POLICE,
LOUISVILLE LODGE 6,
Louisville, KY, February 19, 2003.

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

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the members of Fraternal Order of Police, Louisville Lodge #6. We want to advise you of our support for HR 134. We believe that this bill would add Kentucky to the list of those States permitted to operate a separate retirement system for certain public employees.

As I am sure you are aware that last November our community voted to unite Jefferson County and the City of Louisville, Kentucky. We have a newly formed entity known as Greater Louisville. This merger was effective January 6th 2003. Jefferson County and the City of Louisville are now operating on two very different retirement systems in respect to their police officers. Now that the merger has taken effect, Federal law requires the new government to offer one single retirement plan for everyone.

The Kentucky State F.O.P. Lodge has been successful in its effort in the State's General Assembly and now need the Federal Government to act by adding Kentucky to the list of twenty-one (21) States permitted to operate what is known as a ''divided retirement system.'' This will give every police officer the choice whether to participate in Social Security or remain in their current/traditional retirement plan.

We believe that it is critical and important that Congress act on this matter as quickly as possible. On behalf of our membership, we wish to thank you for your efforts with this matter. Please let us know if we can be of any assistance in the future.

Sincerely,

DAVID JAMES,
President.

CITY OF LONG BEACH
POLICE DEPARTMENT,
Long Beach, CA, February 27, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: It has come to my attention that you will soon be holding hearings on House of Representatives Bill 743. I am writing to let you know that I fully support this Bill, especially as it relates to expanding the denial of Social Security benefits to all of those who are fugitives from justice.

My department has worked successfully with the Social Security Administration's Office of the Inspector General (SSA OIG) in apprehending fugitives who collect Supplemental Security Income payments. By working with the SSA OIG to remove a source of income for the fugitive, law enforcement departments like mine are finding it easier to locate and apprehend fugitives.

I urge you to fully support the provisions of H.R. 743 that make all fugitives ineligible for any type of Social Security benefit from the United States Government.

Sincerely,

ANTHONY W. BATTS,
Chief of Police.

OFFICE OF THE SHERIFF,
WAYNE COUNTY,
Detroit, MI, February 25, 2003.

Subject: House Bill HR 473.

Hon. E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: I would like to take this opportunity to officially endorse and support House Bill HR 473 that provides for the expansion of the Fugitive Felons Project to include the Title II program. My department works closely with the Social Security Inspector General's office in identifying Title 16 SSI welfare recipients who are fugitive felons and are residents of Wayne County.

Over the past two years several hundred fugitive felons have been arrested because of the close working relationship between the Sheriff's Department and the Social Security Inspector General's office. By expanding the fugitive felon provision to include the Title II program, I believe the number of arrests will increase significantly.

If I may be of assistance to you in this matter, please contact me at (313) 224–2233.

Sincerely yours,

WARREN C. EVANS,
Sheriff.

CHARTIERS TOWNSHIP
POLICE DEPARTMENT,
Houston, PA, February 26, 2003.

Congressman E. CLAY SHAW Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN E. CLAY SHAW Jr.: I am writing you today, to strongly endorse House Bill #473. I would especially endorse Section 203 that covers the Title II Fugitive Felons expansion. I believe Law Enforcement efforts would be greatly enhanced by its passage.

Sincerely,

JAMES M. HORVATH,
Chief.

THE BOROUGH OF CHURCHILL
POLICE DEPARTMENT,
Pittsburgh, PA, February 28, 2003.

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

I am writing to show my support for the above bill. I believe that it would be in the best interest of the American public to give this tool to Law Enforcement officials. I believe that it will help up in the investigation of Terrorists.

RICHARD H. JAMES,
Chief of Police.

BRECKNOCK TOWNSHIP
POLICE DEPARTMENT,
Mohnton, PA, February 27, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: I would like to take this opportunity to endorse the expansion of the Fugitive Felons Project to include the Title II program in Section 203 of

HR 473. It will be another valuable tool in the fight against crime.

Thank you for your consideration.

JOHN V. MINTZ,
Chief of Police.

MILTON POLICE DEPARTMENT,
Milton, PA, February 25, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW Jr.: This letter is in support of your efforts under House Bill H.R. 743, amending the Social Security Act and the Internal Revenue Code of 1986. This should provide law enforcement at all levels a powerful tool in the location of fugitives from justice. On many occasions in my law enforcement experience I have found persons receiving benefits of the Social Security System while outstanding warrants or other paper was pending on them.

Thank you for your introduction of this needed legislation.

Sincerely yours.

PAUL YOST,
Chief.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a valued member of the subcommittee.

Mr. HERGER. Mr. Speaker, I rise in support of the Social Security Program Protection act. I would like to thank Chairman SHAW and the other members of the Committee on Ways and Means who have worked tirelessly to improve Social Security programs that provide a crucial safety net for many of our Nation's neediest disabled and elderly individuals. These changes have been designed to ensure that the right benefits go to the right people, a principle which should guide our efforts on behalf of the taxpayers we serve.

I am especially pleased that the bill before us includes a provision designed to keep convicted fugitive felons from getting Social Security checks. These efforts built upon the criminal welfare prevention provisions which I introduced and which were enacted into law more than 3 years ago. By all accounts, these laws have been effective in stopping illegal, fraudulent Social Security payments to prisoners.

We have also stopped hard-earned taxpayer dollars from being used to subsidize addicts with disability checks. Overall, we have saved the taxpayers and beneficiaries literally billions of dollars.

Other provisions in the legislation before us, such as granting the Social Security Administration the tools it needs to weed out waste and fraud, will further protect vulnerable beneficiaries.

Mr. Speaker, this bill passed with overwhelming bipartisan support in the last Congress. I urge all my colleagues to join me today in supporting it once again.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today to express my strong opposition to section 418 of the Social Security Protection Act.

Under section 418, an individual would be required to work in a Social Security-covered job for his or her last 5 years of employment to be exempt from the GPO. Both the increase in time and the offset itself are absolutely ridiculous.

Under a provision of current law, known as the ''last day rule,'' an individual is exempt from GPO if he or she worked in a job that was covered by Social Security on the last day of employment. According to the GAO, extending the employment requirement to 5 years will save only $18 million per year, greatly to the detriment of public workers, especially our school teachers.

Section 418 was not included in the version of this legislation that the House passed, with my support, during the 107th Congress. This is not the same bill as last year. I support the other provisions of this legislation, but cannot support H.R. 743 as introduced. Technical corrections are necessary. This is a correction that will strike at the very heart of public school teachers in Texas and public employees in other parts of the country.

Mr. Speaker, I hope this legislation will finally focus Congress' attention on the need to repeal the government pension offset. I urge the Committee on Ways and Means to examine the GPO and its harmful impact on seniors in my district and all across the country.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), another valued member of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the subcommittee for yielding me this time, and I rise in strong support of the Social Security Protection Act of 2003.

Now, the gentleman who preceded me in the well, the gentleman from California, spoke of the initiatives this committee and this House adopted to crack down on fraud and abuse, specifically the abuse of Social Security payments going to convicted felons. We have a chance now to expand that, to deny fugitive felons and payroll violators from receiving Social Security benefits and help individuals with disabilities.

This is the key thing for me, my colleagues, because so many folks in the Fifth Congressional District of Arizona have come to me to extol the virtues of something this Congress did back in 1999, as we put people back to work with our Ticket to Work incentives that year. And while we have granted tickets to work across the country to emphasize the ability in disability and put people back to work, an important piece of clarifying language is in this provision. It clarifies that the Work Opportunity Tax Credit would be available to employers who hire a disabled beneficiary who is referred from any employment network, not just the State rehabilitation agency.

So we actually expand the pool of people who can go to work and add further incentives in our Ticket to Work. So, on one hand, if we are talking about Social Security protection, we move to bar those who would take advantage of fraud and abuse. We crack down there. And yet for the most deserving among us, people who genuinely want to get back in the workforce, who have been met with limitations heretofore, we expand their opportunities to find work. We expand the opportunities for those who are willing to put them to work.

It creates the type of balance necessary. It is the ideal type of perfecting and expanding legislation that is meant when we say we step up to protect this vital program. It shows reasoned balance and perfection in what is all too often an imperfect world as we strive to further strengthen and protect and perfect our process of Social Security.

If nothing else were there but this expansion of the Work Opportunity Tax Credit and the Ticket to Work Program, I would stand in favor of this bill. But it does so much more. I would invite all of my friends in the House to join us in supporting this legislation.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from the State of Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time and for all of his good work.

I am particularly saddened today, Mr. Speaker, that I have to come to the floor and vigorously oppose this legislation because just last year, 2002, I enthusiastically supported the Social Security Act of 2002 for the very reason that we do need to fix some of the abuses and we need to respond to the needs of shoring up Social Security.

But the Texas branch of our teachers association has characterized this hidden provision in 418 as a poison pill for Texas school employees—hardworking teachers and others who are working in our school districts lose their benefits. Many school districts offer teachers nonSocial Security government pensions. So, until now, many teachers have been forced to take advantage of the last day option. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits.

This is a ridiculous system and the appropriate way to fix it would have been to repeal the GPO. In fact, I have cosponsored H.R. 594, with my colleague, the gentleman from California (Mr. MCKEON), and 132 others, just to do that. This bill closes the option to protect those hardworking teachers.

For example, I received a call from one woman in my district who was a teacher earlier in her life. She wanted to come back today and help the teachers to teach the children to the system.

But as a widow she cannot do so because of this terrible structure in our Social Security legislation.

Mr. Speaker, this is a bad bill that has this hidden provision. It will hurt teachers, firefighters, and police persons and I ask my colleagues to vote against it.

Mr. Speaker, I am saddened to come to the floor today to speak out against H.R. 743, The Social Security Protection Act of 2003. Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in their government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to $5000 if they knowingly provided false or misleading information.

For further protection, representative payees for over 15 individuals would be required to be licensed and bonded, and would be subject to periodic reviews. The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program.

The bill passed unanimously in the House last Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of last year. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as ''poison for Texas school employees.'' That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the ''last day rule,'' an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so until now many teachers have been forced to take advantage of the ''last day'' option. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK MCKEON, and 132 others to do just that.

Instead, the bill before us today closes the option. I am usually all for saving money, but now is no time to be ''sticking-it'' to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, today I received a call from one woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose $360 per month in retirement benefits—over $4000 per year.

Why should she risk it? If H.R. 743 passes today, it won't be only she that loses. It will be our Nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I will vote ''no'' on H.R. 743, and urge my colleagues to do the same.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to say to the gentlewoman from Texas that this levels the playing field and treats the people, or the teachers in Texas as other teachers throughout the entire country.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), another valued member of the Committee on Ways and Means.

Mr. HULSHOF. Mr. Speaker, I thank the chairman for yielding me this time, and I rise in support of H.R. 743, the Social Security Protection Act.

There are a lot of issues that are addressed that are important to Americans with disabilities that depend upon Title II and Title XVI. Individuals facing the challenges of life with a disability need these protections that are proposed on the representative payee provisions.

There are about 6 million Americans that receive Social Security and supplemental security income. These beneficiaries often have family members or loved ones who act on their behalf, and yet there are some of those receiving these benefits that go to services, a fee for this service of being a representative payee. If someone receives a fee for this service, now they must be bonded and licensed. And if this representative payee chooses to pray on the disability or the elderly, society's most vulnerable, then tough civil monetary penalties will result. These changes are important and necessary.

Another provision deserving mention, Mr. Speaker, is contained within section 401 through 405. In 1999, this body enacted some breakthrough changes for individuals with disabilities, specifically the Ticket to Work and Work Incentive Improvement Act. The Ticket to Work rolled over barriers that prevented countless employable individuals with disabilities from rejoining the workforce.

□ 1115

Yet now we need to make some technical corrections. For instance, one of the things in the original Ticket to Work bill was a demonstration project which allowed the commissioners of Social Security to look at other ways to employ those that want to rejoin the workforce. One of the technical corrections is that we extend the 5-year limit on designing and implementing these worthy demonstration projects.

I am especially interested personally in abolishing this so-called ''income cliff.'' That is, if an individual is employable and works and achieves earnings up to a certain amount, if that individual makes $1 more than that, they fall off the cliff and lose all of their Social Security disability benefits. I encourage this sliding scale, for every $2 earned, maybe losing $1 of disability benefits. Yet we need to make those technical corrections to the bill so employer networks will accept these beneficiaries that are participating in this $1 for $2 offset demonstration project. So these are worthy changes.

Let me quickly address the issue of my colleagues from Texas. There was a recent study that the General Accounting Office came back to our committee in August of last year with, at the request of the chairman, and found this last-day exemption, this loophole, found that nearly 5,000 individuals in two States were taking advantage of this loophole in order to get around the requirements of law.

What we do is simply implement the changes of the GAO. What the General Accounting Office found was that we were allowing, current law was allowing a select group of individuals with really a small investment of work time and only minimal Social Security contributions to really gain access to potentially many years of full Social Security benefits. I recognize this is a tough situation for those Members from those particular States; but as the chairman alluded after the last speaker, this is something that brings those States in line with the other 48 States. Again a difficult but necessary, important change. These changes are overdue. I urge adoption of H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, there are over 40,000 teachers across the State of Texas who could be adversely affected by this legislation. This bill includes provisions which I consider to be catastrophic for Texas teachers and many other government employees. Provisions in the legislation would, in effect, reduce the amount of combined benefits that the Texas teachers could depend upon after retirement, even for many teachers who have paid into both Social Security and the Texas teacher retirement system.

I realize that many in this body characterize section 418, the section that would extend the last-day exemption to 6 years, as an issue of fundamental fairness. With that, I cannot entirely disagree. Those who are able to take advantage of a loophole in the law represent a small minority of Americans who pay into Social Security and a government pension; and there are other ways in which we can fix that, and we do have legislation that is pending.

I do not object to this legislation on the grounds that it seeks to create an equitable system of payment for all citizens. I object to a process whereby Members of the Texas delegation and other delegations are not able to offer amendments or debate this bill on the floor of the House. This legislation will have broad implementations for teachers in Texas and will most likely force a mass exodus of experienced teachers from our public schools. Under this legislation, teachers will still be able to retire this year and use the last day exemption provision to draw their retirement.

What impetus does an experienced teacher have to stay in the classroom and continue teaching if the government is, in effect, going to significantly reduce his or her retirement payment after this year? If we are to attract and retain qualified, caring teachers, then hidden procedures such as that in section 418 must be debated and considered in an open forum where amendments and debate are not stifled. Now is not the time to force experienced, caring teachers into retirement and demonstrate to the younger generation of educators our indifference to the livelihood of our Nation's educators.

Mr. Speaker, I ask that we pull section 418, make the bill like it was last year, or defeat H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Speaker, a few years ago a lady came to my office in my district whose husband had died before he had ever collected a single penny of Social Security. He had worked his entire life paying into the Social Security system thinking when he died, his wife would receive a survivor's benefit from his Social Security payments that would help keep her secure during her retirement.

She sat in my office near tears explaining to me that because she had spent her career in teaching and because she receives a monthly Texas State teacher's retirement benefit, she would never see one penny from Social Security. To learn that she would have received a survivor's benefit if she had been drawing a retirement benefit from a private, rather than a public, retirement fund only added insult to her injury.

Mr. Speaker, this is unfair and the government pension offset must be repealed. For the 6 years that I have been in Congress, I have cosponsored the legislation to end this unfair result caused by this provision we call the GPO. Last year 186 Members on both sides of the aisle cosponsored legislation to repeal this government pension offset. In spite of that support, the bill never has passed, never has received a full hearing in the committee. And in spite of the support in this Congress, section 418 of the bill before us moves in exactly the opposite direction.

Mr. Speaker, I urge my colleagues to protect our teachers, to reject this bill today, to send it back to the Committee on Ways and Means with the understanding that the GPO should be repealed.

Mr. MATSUI. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

This is an issue so important to some of us who represent districts in Texas and Georgia, and it is important nationwide because there has been legislation in the last 4 years that had a majority of the U.S. House of Representatives as cosponsors to repeal the offset for public employees, for teachers, firefighters and police officers. The gentleman from Arizona (Mr. HAYWORTH) was a cosponsor of the bill 2 years ago, and now we are gathering signatures again. It is a system that is wrong, and it needs to be changed; but in my 5 years, we have not had a chance to address it on the floor of the House of Representatives.

I know my colleagues talk about the 1 day as a loophole. Well, it may be a loophole, but it is also complying with the law. It is interesting, we are going to close a loophole and allow firefighters, police officers and teachers to go to work 1 day in a system that has Social Security and their retirement system and be eligible for Social Security. Yet we are willing to open up millions of loopholes for corporations to be able to walk through.

I regret to say Enron is from the area I am from in Houston, and they have not paid Federal taxes in 6 years. We do not mind opening loopholes big enough for corporations to drive trucks through, but for a school teacher who wants to get her husband's Social Security benefits because she has taught for 30 years teaching our children, we are closing up that loophole. They get penalized on their widow's benefits. We are talking about widows' benefits and not somebody that is double dipping, and I know previously that is what the committee wanted to do.

Mr. Speaker, I am opposed to H.R. 743, and I hope that Members will look at it to change it. Some public employees are not covered by Social Security, and in Texas it is particularly our police officers, firefighters and teachers. Our school districts can be part of Social Security or not. The individual employee, whether they are a cafeteria worker or custodian or a teacher, they do not have a choice. All they want to do is serve our children, and yet they are getting penalized.

My example is the best one I can think of. My wife and I have been married 33 years. She has been a teacher in Texas for 26 years. If I died tomorrow, she would be penalized on all the benefits that I have put into Social Security. I have paid the maximum for I-do-not-know-how-many years. She would be penalized because she is a public schoolteacher in Texas.

H.R. 743 has a great many good things in it, but this is so bad we ought to have enough votes on the floor to be able to defeat it and bring it back without this provision in it, or at least bring it back and debate it fully on the floor with an opportunity to amend it.

Full spousal benefit ought to be if I paid into Social Security, my wife as a widow when I pass away ought to get the same benefit no matter whether she is a stay-at-home housewife or actually worked as a schoolteacher. We should not punish teachers and firefighters and police officers by stripping away this right unless we address the underlying problem of the government pension offset.

Closing a loophole, that is what the current law is. And in Texas I have a good example. I have a teacher in my wife's school district who was 73 years old. Her husband died in her early sixties. She was receiving his Social Security widow's benefit. She could not retire because of the cut she would take in her Social Security benefit from her husband. They were married many years so she was entitled to it. What she did, she went and worked in a school district that had Social Security and teacher retirement for that 1 day at 73 years old. How long do we want people to have to work?

It is just outrageous what the law has made people have to do. Teachers across our country are chronically underpaid. We give lots of lip service on the floor. Yesterday we passed a resolution about Lutheran educators. I am talking about public school teachers who teach our children every day. Is it perfect? Of course not. But this is the only thing we can do on the Federal level because teachers' salaries are set by the school districts and by the States. But this is something we can do to say we are not going to slap them in

the face. We are going to make sure that if someone is a teacher and has taught all those years, and their husband has been under Social Security and they pass away, and I say husband because most of the teachers are women. They are the ones in their retirement years who have less than we do as men, and yet we are taking that away from them. Again, that is just outrageous.

We find it harder and harder to attract teachers. Let us make sure if teachers are married to someone who pays into Social Security, they can get their widow's benefit without being punished for it. This issue is close to the heart for a lot of us in Texas.

Mr. SHAW. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I remind Members who are going to vote on this issue who are zeroing in on this one small part of this bill, where we have a two-worker family both paying into Social Security, one dies, the survivor either gets their earned benefit or the survivor benefit, whichever is greater.

But in Texas where you have one spouse who has paid nothing into Social Security but paid all into their pension plan, they would receive, if they worked 1 day under the Social Security system, they would receive their full pension and survivor benefits. All we are trying to do is to say if someone works 5 years under Social Security, they can get both. But if they work 1 day, they cannot get both.

This is trying to level the playing field for the millions of teachers, firefighters and others across this country who have paid into Social Security, to level the playing field so the people who never paid into Social Security are not getting a better deal. It is as simple as that.

Mr. Speaker, I reserve the balance of my time.

□ 1130

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Ohio (Mrs. JONES), a member of the Committee on Ways and Means.

Mrs. JONES of Ohio. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to speak in support of the legislation, but not with regard to the government offset. It is very, very important that we make sure that we take care of the persons on Social Security that have representatives speaking on their behalf. This legislation will provide stricter requirements with regard to those who represent people in the Social Security Administration on behalf of recipients.

This is my first opportunity as a member of the Committee on Ways and Means, the Subcommittee on Social Security, to be on the floor to speak on behalf of an issue. I am pleased to stand in support of this legislation with regard to all the provisions with regard to Social Security. I thank the chairman and the ranking member for all the work they have done in this particular regard.

Mr. SHAW. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BRADY), a valued member of the Ways and Means subcommittee.

Mr. BRADY of Texas. Mr. Speaker, we are right to be concerned about our teachers. They are overworked. They are underpaid. We are concerned about them. I think had it not been for study over the last year or so, I would be giving the exact same speech today as my Democratic colleagues from Texas because we are all concerned. It turns out this is not exactly the case I thought it was.

Recently we held a hearing on this legislation. We wanted to hear from our Texas teachers, so we requested the chairman invite our Texas State Teachers Association, our Texas Federation of Teachers and the Association of Texas Professional Educators to testify. Unfortunately, they were not able to because of various reasons, the snow being one of them, but we submitted their testimony on their behalf and urged members of the subcommittee to study it.

During the hearing, it was shown that teachers in government pensions are not being singled out. They are not. The government pension offset affects more than just teachers. It affects more than 5 million people in all sorts of State, local and Federal Government pensions who do not pay into Social Security. This is important to know because a lot of my teachers feel like they are being targeted, being singled out.

My main concern during the hearing that I expressed that my teachers are so upset about, that a widower who has worked a lifetime to earn their government pension, like a Texas teacher, will keep less of their deceased spouse's Social Security than a widower who has worked and paid into Social Security. The Social Security Administration conclusively proved this is not the case. It turns out it is just the opposite.

Teachers in TRS are able to keep the same, or more, of their spouse's Social Security benefits than other widowers who have worked, like nurses or waitresses. That is because the government pension offset law reduces their husband's or their deceased spouse's Social Security by two-thirds of their pension. But for other widowers, for waitresses, nurses and others who paid into Social Security, their husband's benefits are reduced even more, 100 percent of their own benefit.

What I think confuses teachers and many is that if someone has not worked, they have worked inside the home all their life, have not earned Social Security, they keep all of their husband's or their deceased spouses's benefits because they depend upon it more. Social Security is extremely complicated. There is a great deal of misinformation going around the Internet and by well-meaning individuals and organizations these days.

What frustrates me most is that teachers were not told about this situation years ago. They feel they have paid into Social Security for years and they do not get the help when they need it the most. It would have been so much better if this would have been reformed years ago, where you put aside your own contribution to Social Security into a traditional retirement account, where that money grew for you over the years, you could take it with you, it was yours to own and you would not be surprised by some government formula done 20 years ago. That is where we need to head.

How we can help teachers today and others I think is to focus on the windfall elimination provision. It sounds complicated, but the principle is, for me, if you have worked hard and paid into Social Security and you have worked hard and paid into a government pension, you should receive more of both. I am thinking here of teachers who have contributed their hard-earned pay into Social Security through a second job, teachers who have contributed to Social Security in another State before moving to Texas or Georgia, thinking of future teachers who already have a career, we would like to get them into the classroom to help but they are afraid of losing their retirement benefits. I believe the best and the most timely solution to help these people, these teachers, and others who have earned two pensions, is to modernize the windfall elimination provision to make it more fair.

I have asked our subcommittee chairman, the gentleman from Florida (Mr. SHAW), to hold hearings on the windfall elimination provision. This is where I think we can take a formula that is outdated, I think a bit arbitrary, and focus on the principles if you have paid into Social Security and you have paid into your government pension, that you keep more of the Social Security that you have paid into.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. GILCHREST). The gentleman from Texas is recognized for 5½ minutes.

Mr. DOGGETT. Mr. Speaker, I must begin by saying that I find the comments of the last speaker, the gentleman from Texas (Mr. BRADY), to be very troubling. Each of the three organizations that he identified, the Association of Professional Texas Educators, the Texas State Teachers Association, and the American Federation of Teachers, oppose this bill. They have submitted written testimony when at least one of those organization's representatives was stranded in Austin because of an ice storm.

It is fine to talk about teachers; this Republican leadership though has a chance to act. Today they talk about leveling the playing field. It is just that they want to level the playing

field down instead of leveling the playing field up. The Texas teachers who have tried to protect themselves from this terrible government pension offset have confronted a Republican leadership that has been in control here for the last eight years. What have they done about the windfall elimination provision or the government pension offset during that time? They filed a bill that a lot of us have cosponsored. They could have had a hearing in the subcommittee last week on that bill. But what did they choose to do? They took a bill that passed unanimously, that I voted for, that the gentleman from California (Mr. MATSUI) voted for, that every Member of this Chamber voted for last year, and they added a provision to it, on page 70 of the bill, section 418, a provision that is not even clearly identified in the summary of the bill. This bill has the effect of taking away a right that Texas teachers and teachers in other parts of this country have utilized and which they enjoy a perfect right to utilize.

It is legal and proper for teachers to do this, and the reason they must act for themselves is that this Congress, under Republican leadership, has failed to act for them. This self-help should be of little surprise when all they hear is talk up here and when the Republican leadership will not even set this for a hearing.

Yes, they had a hearing on a bill that passed unanimously last year. They just tucked in a little provision they did not tell us about that hurts the teachers of Texas and many other States. Then what did they do after they held a hearing when our teachers were stuck in an ice storm but they were so eager to move forward that they would not wait for them to get to Washington? Did they bring it up for a vote in the subcommittee? No, they did not. Did they bring it up for a vote in the full committee on Ways and Means? No, they did not. Instead they brought it directly to the floor today in a surprise move announced only a couple of legislative days after this was taken up in committee. Now they propose to bring it up under a procedure where debate is limited and we cannot even offer an amendment to take out this offending provision.

Yes, I think we should do something about felons getting Social Security checks. I am ready to vote for that. But why do we have to treat our teachers like felons and deny them the benefits that they have rightly earned?

The loss of a spouse is difficult enough to bear. But when a widow or a widower has devoted their lifetime to public service as a teacher often at low wages, they get another cruel surprise. When these former educators lose their husband or wife, the Social Security Administration does not send them a letter to console them in their mourning, it reduces the spousal Social Security benefit by two-thirds of the teacher's pension. That is what these teachers are concerned about.

To the average retired teacher in Texas, or anywhere else, this means a loss of about $360 a month. For an elderly retiree, you can call it an ''offset,'' but for them it is mighty upsetting. Confronted with this unfair offset and the technique that teachers have had to rely on as self-help to fix this injustice, the Republican leadership has not been willing to correct the problem. Instead, they want to target the cure. What a contrast, too, with the rest of their legislative package.

The Republicans could have fixed this injustice in a separate bill or they could have fixed this injustice in the bill that they are going to be taking up tomorrow, that began as a very appropriate, unanimously supported bill much like this one. It is called the ''Armed Forces Tax Fairness Act,'' and it is designed to treat our Armed Forces fairly as they serve in harm's way throughout the world.

But what began as a bill to help our Armed Forces has been debased with measures that would allow foreigners to bet on horse races tax-free, certainly good news to the Turks and the French; it would exempt fishing tackle boxes from an excise tax; and exempt bows and arrows from a similar tax.

I support tax fairness for our military because they secure our country. But I also support retirement security for our teachers because they build the foundation upon which our democracy rests. The Republican leadership is today tackling the issue of tackle boxes, but it tells our teachers to ''Go fish.'' They will cut bow and arrow taxes but put a bulls-eye on teachers. Surely we can also fix the injustice that this offset inflicts on America's educators.

We ask for a ''no'' vote on this bill and we have a message to this entire Congress that has not been heard, apparently by even some of our own representatives, but certainly not by the sneaky tactics that got this provision in the bill. That message, is, ''Don't mess with Texas.'' [Doggett holds bumper sticker] Don't mess with Texas teachers. Vote ''no'' on this bad bill.

Mr. SHAW. Mr. Speaker, I would remind the other speaker that what we did was picked up the language that the Democrat-controlled Senate passed by unanimous consent in the last Congress and put it in this bill and now have brought it to the floor.

Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, clearing up a couple of misconceptions there, I would love to be able to tell my Texas teachers, whom I love, what they want to hear. But I respect them too much to do that. I want to tell them the truth. The fact of the matter is, this was not snuck in. This was passed in the Senate last session. And this Republican House, with Texas lawmakers from both sides said, let us discuss this in open debate and make sure it is the right way, which is exactly what we are doing. Both parties have had a chance to work on this issue since 1983. We have not come up with a solution yet. We are working to do that.

Finally, I want our Texas teachers to be treated fairly. I want our Texas waitresses and nurses and other moms to be treated fairly, too.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to remind the House, even though we have been talking about the Texas situation over most of the time that has been allocated to this bill, exactly what this bill does and exactly why it is and does receive such high bipartisan support. This holds representative payees accountable for mismanaging benefits and increases representative payee oversight. We support that and you support that. It denies Social Security benefits to fugitive felons. That is right. I support that. You support that. It deters fraud by creating new civil penalties for Social Security fraud. All of us agree to that. It helps individuals with disabilities gain access to representation. These are the people that need it most. We agree with that. You agree with that. It helps disabled beneficiaries return to work. This is something that I think that this Congress has done with a ticket to work, and I think have done it in the best tradition of this House, in a very bipartisan way.

Now we come to a little bump in the road. It does involve Texas. I think the gentleman was quite right to put the sign up, ''Don't Mess with Texas,'' because that is a Texas problem. But Texas has discovered a loophole which folds into their pension plan which is unfair to the rest of the country. The General Accounting Office has told us that this is going to amount to about a half a billion dollars in savings once this goes into place, just simply by treating Texas like the rest of the country.

□ 1145

This is not anti-Texas, and it is not intended to punish anybody. As a matter of fact, those that are already receiving those double benefits and the disability benefits as well as their earned pension plans will continue to do so. They plan for their retirement. So we do not take that away; but we do put fairness into the law, and we say that people who do not pay into Social Security should not get a better deal than those who did pay into Social Security.

With that, Mr. Speaker, I ask for a ''yes'' vote.

Mr. UDALL of Colorado. Mr. Speaker, I support this bill because it includes many necessary provisions to protect Social Security beneficiaries.

However, I do have concerns about one provision, and would have preferred for the bill to be considered under a procedure allowing for amendments.

The troublesome provision is the one related to the ''government pension offset'' part of the Social Security Act.

I understand the rationale for that provision, which would make application of the offset

provision more uniform. However, I think it would be better for this provision to be considered separately, as part of a measure to make other revisions to the government pension offset.

I think the offset should be revised, because as it stands it works a hardship on many people. That is why I am cosponsoring a bill (H.R. 887) which would assure that the offset will not reduce Social Security benefits below $2,000 per month. I hope the House will soon take up that much-needed legislation.

Mr. ORTIZ. Mr. Speaker, the original intent of this bill was a worthy one: to reimburse Social Security benefits if they are misused by people representing the recipient.

That's not controversial . . . but the provision reducing the spousal Social Security benefits for countless teachers, school support personnel, police officers, firefighters, and other public servants is most certainly controversal—and I intent to oppose the entire bill since it contains this provision that will adversely affect teachers and others across Texas. These are people we should be protecting.

We need to understand that targeting pensions of teachers and other school employees will discourage qualified individuals from entering the classroom at exactly the time when the nation is experiencing a shortage of teachers. We say we are committed to education . . . yet in this bill we are profoundly uncommitted to educators.

The teachers across the state of Texas are largely women and are not wealthy people. They depend on the benefits of both them and their spouses; nearly all are part of two-income families. We are being monumentally unfair to them by changing the rules late in the game.

Since we are ramrodding this bill through the House with non-controversial bills today, be on notice that our opposition efforts will not end here.

I am a co-sponsor of HR 594, a bill introduced in the 108th Congress that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits.

Mr. Speaker, I am deeply disappointed that this provision was included in an otherwise good bill.

Mrs. TUBBS JONES of Ohio. Mr. Speaker, I rise in support of H.R. 743. First, I would like to acknowledge Mr. MATSUI for working diligently on the Social Security Act of 2003.

As we all know, H.R. 743 will extend the direct fee withholding program payment to attorneys who represent supplemental security income claimants, thus encouraging more attorneys to represent them.

It is vital that we pass legislation that addresses the major concerns of our seniors, the blind, and the disabled.

This legislation imposes greater standards on individuals and organizations that serve as representative payees for Social Security and supplemental security income recipients; this legislation will make non-governmental representative payees liable for ''misused'' funds and subject them to civil monetary penalties; H.R. 743 will reduce the fee assessments from the Social Security Administration that charges attorneys for fee withholding.

Overall, the Social Security Act of 2003 will be beneficial to recipients and those who serve as representatives for recipients.

Furthermore, H.R. 743 will make a number of technical changes designed to reduce Social Security fraud and abuse.

Mr. Speaker, I will close my statement for the record with supporting H.R. 743.

Mr. REYES. Mr. Speaker, I rise today in recognition of the hard work of our nation's teachers, particularly in El Paso, Texas, which I proudly represent. My community, like many other communities across the country, are suffering from a teacher shortage. Our schools lack teachers in many important areas of study, such as math, science, and special education. Meanwhile, teacher salaries are still insufficient and it is difficult to recruit qualified personnel when salaries are not atttractive.

I know full well the effort and hard work that teachers dedicate to their students. My wife was a teacher for many years and my daughter, who just completed her doctorate degree in education, is currently an administrator at a local school district. I believe the teaching profession is one of the most honorable professions. I credit our teachers with laying the foundation for the future of our country and the world. In addition to teaching children the basic skills they need, teachers are an important guiding force for our children. After parents, they are one of the greatest influences on children. We therefore need to make sure we have well-qualified and well-paid teachers educating students.

As you know Mr. Speaker, passage of this bill before us would reduce the spousal Social Security benefits for countless teachers. H.R. 743 also affects school support personnel, police officers, firefighters, and other public servants. At a time when multi-billion dollar tax breaks are being given to our country's top income earners, our teachers and other public servants would be penelized through this bill. These are people we should be protecting. We should not make them pay for the tax cuts we give those who are more fortunate. This bill negatively affects teachers and other public servants in my state of Texas. For that reason I will be voting against this bill.

Mr. Speaker, I have co-sponsored H.R. 594, a bill introduced by my colleague Mr. MCKEON that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits.

I strongly urge my colleagues to oppose H.R. 743 and continue to support our teachers.

Mr. ROYCE. Mr. Speaker, I am firmly committed to protecting Social Security for current recipients and for those who will be retiring in the near future. So, I want to thank the Chairman of the Subcommittee on Social Security, Mr. Shaw for his efforts to strengthen the financial security of our Nation's retirement system. I support the Social Security Protection Act, and I was pleased to support this bill when it passed the House unanimously last year. It is unfortunate that the House and Senate couldn't work out a final version before the end of the 107th Congress.

This bill stops fugitive felons from receiving benefits. The CBO estimates we will pay over $500 million to fugitive felons over the next 10 years from the Social Security trust funds.

The Social Security Administration appoints representatives payees for many beneficiaries to help manage their financial affairs when they are not able. This bill protects these beneficiaries from representative payees who may misuse their benefits.

Mr. Speaker, this bill helps put the Security back in Social Security and I look forward to its passage.

Mr. HINOJOSA. Mr. Speaker, I rise in strong opposition to H.R. 743. I do so, not because I oppose ending Social Security fraud and abuse, but because of a section that is damaging to state and municipal employees. Section 418 is bad for teachers, police officers, fire fighters and other state and local workers in Texas who receive government pensions that are currently being reduced because of the Government Pension Offset provision of the Social Security Act. Section 418 would require experienced public servants to quit their jobs prematurely and work for the private sector for the 5 years before they retire in order to avoid the offset. We all know that our Nation has a critical shortage of teachers and public safety personnel. This provision will only exacerbate the problem.

The teachers of Texas have been writing and calling my office to protest this long-standing offset provision that is taking away Social Security benefits that they and their spouses have earned. At a time when federal and state budgets for education are being slashed, this is just one more slap in the face to those who are working hard to educate our children. We need to let them know that education is a national priority and that we value their dedication.

Instead of this bill that will provide no relief for these hardworking public servants, I urge the majority to bring H.R. 594, introduced by Congressman MCKEON and which I proudly co-sponsor, to the House floor for a vote. This legislation would repeal both the Government Pension Offset and the ''Windfall Elimination Provision'', another portion of the Social Security Act that is penalizing state and local government employees.

I encourage my colleagues to move quickly to bring real relief to teachers and other public employees by considering H.R. 594 or failing that, by bringing H.R. 743 to the floor under regular order so that this damaging Section 418 provision can be removed. Our public servants deserves no less.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to register my strong support for the Social Security Protection Act of 2003 (H.R. 743).

While I recognize there are differences between Republicans and Democrats on how to address the long-term solvency problems facing Social Security, I am pleased to see that we can work together to address other important issues facing the program.

H.R. 743 is a common-sense bill that provides the Social Security Administration with the necessary resources and tools to fight fraud and abuse. Along with other provisions in the bill, this will save taxpayers $656 million over ten years. In addition, the legislation improves the landmark Ticket to Work law to help people with disabilities find work.

H.R. 743 also adds Kentucky to the list of states that offer divided retirement systems. In January, the former governments of the City of Louisville and Jefferson County merged. Since the merger was approved by the people of Jefferson County in November 2000, local and state officials have been working together to ensure that the transition was without problems. All indications are that it has been a success.

One important issue, however, that needs to be addressed is how to provide Social Security and Medicare coverage to hazardous duty employees working for the county and the city. Since January 6, 2003, all officers are considered a single group for Social Security coverage purposes. Prior to the merger some police officers and firefighters contributed to Medicare, but not Social Security. Some contributed to both; others neither.

As we can see, ensuring fair and equal coverage presents a serious challenge to the new government. After working with all interested parties, it was agreed that a divided retirement system is the solution. Currently 21 states use this system.

Under a divided retirement system, each employee will decide whether or not to pay into Social Security. All new employees hired after the system is in place would automatically be enrolled in Social Security.

The Kentucky Division of Social Security has started the education process with representatives from the Social Security Administration and the groups that represents the hazardous duty employees. Last year, the Kentucky General Assembly adopted a bill that allows this system to go forward as soon as Congress approves this legislation and President Bush signs it into law.

In closing, I would like to thank Chairman SHAW and Ranking Member MATSUI for including this important provision in H.R. 743 and urge my colleagues to support the bill.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and pass the bill, H.R. 743, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DOGGETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 743.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

Mr. CRANE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

The Clerk read as follows:

H.R. 1047

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Miscellaneous Trade and Technical Corrections Act of 2003''.

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

Sec. 1. Short title; table of contents

TITLE I—TARIFF PROVISIONS

Sec. 1001. Reference; expired provisions.

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1101. Bitolylene diisocyanate (TODI).
Sec. 1102. 2-Methylimidazole.
Sec. 1103. Hydroxylamine free base.
Sec. 1104. Prenol.
Sec. 1105. 1-Methylimadazole.
Sec. 1106. Formamide.
Sec. 1107. Michler's ethyl ketone.
Sec. 1108. Vinyl imidazole.
Sec. 1109. Disperse blue 27.
Sec. 1110. Acid black 244.
Sec. 1111. Reactive orange 132.
Sec. 1112. Mixtures of acid red 337, acid red 266, and acid red 361.
Sec. 1113. Vat red 13.
Sec. 1114. 5-Methylpyridine-2,3-dicarboxylic acid.
Sec. 1115. 5-Methylpyridine-2,3-dicarboxylic acid diethylester.
Sec. 1116. 5-Ethylpyridine dicarboxylic acid.
Sec. 1117. (e)-O(2,5-Dimethylphenoxy methyl)-2-methoxy-imino-n-methylphenylacetamide.
Sec. 1118. 2-Chloro-N-(4¼chlorobiphenyl-2-yl) nicotinamide.
Sec. 1119. Vinclozolin.
Sec. 1120. Dazomet.
Sec. 1121. Pyraclostrobin.
Sec. 1122. 1,3-Benzenedicarboxylic acid, 5-sulfo-1,3-dimethyl ester sodium salt.
Sec. 1123. Saccharose.
Sec. 1124. Buctril.
Sec. 1125. (2-Benzothiazolythio) butanedioic acid.
Sec. 1126. 60–70 Percent amine salt of 2-benzo-thiazolythio succinic acid in solvent.
Sec. 1127. 4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1).
Sec. 1128. Mixtures of rimsulfuron, nicosulfuron, and application adjuvants.
Sec. 1129. Mixtures of thifensulfuron methyl, tribenuron methyl and application adjuvants.
Sec. 1130. Mixtures of thifensulfuron methyl and application adjuvants.
Sec. 1131. Mixtures of tribenuron methyl and application adjuvants.
Sec. 1132. Mixtures of rimsulfuron, thifensulfuron methyl and application adjuvants.
Sec. 1133. Vat black 25.
Sec. 1134. Cyclohexanepropanoic acid, 2-propenyl ester.
Sec. 1135. Neoheliopan hydro (2-phenylbenzimidazole-5-sulfonic acid).
Sec. 1136. Sodium methylate powder (Na methylate powder).
Sec. 1137. Globanone (cyclohexadec-8-en-1-one).
Sec. 1138. Methyl acetophenone-para (melilot).
Sec. 1139. Majantol (2,2-dimethyl-3-(3-methylphenyl)propanol).
Sec. 1140. NeoHeliopan MA (menthyl anthranilate).
Sec. 1141. Allyl isosulfocyanate.
Sec. 1142. Frescolat.
Sec. 1143. Thymol (alpha-cymophenol).
Sec. 1144. Benzyl carbazate.
Sec. 1145. Esfenvalerate technical.
Sec. 1146. Avaunt and steward.
Sec. 1147. Helium.
Sec. 1148. Ethyl pyruvate.
Sec. 1149. Deltamethrin.
Sec. 1150. Asulam sodium salt.
Sec. 1151. Tralomethrin.
Sec. 1152. N-Phenyl-N¼-(1,2,3-thiadiazol-5-yl)-urea.
Sec. 1153. Benzenepropanoic acid, alpha-2-dichloro-5-{4 (difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl}-4-fluoro-ethyl ester.
Sec. 1154. (Z)-(1RS, 3RS)-3-(2-Chloro-3,3,3 triflouro-1-propenyl)-2,2-dimethyl-cyclopropane carboxylic acid.
Sec. 1155. 2-Chlorobenzyl chloride.
Sec. 1156. (S)-Alpha-hydroxy-3-phenoxybenzeneacetonitrile.
Sec. 1157. 4-Pentenoic acid, 3,3-dimethyl-, methyl ester.
Sec. 1158. Terrazole.
Sec. 1159. 2-Mercaptoethanol.
Sec. 1160. Bifenazate.
Sec. 1161. A certain polymer.
Sec. 1162. Ethylphenol.
Sec. 1163. Ezetimibe.
Sec. 1164. p-Cresidinesulfonic acid.
Sec. 1165. 2,4 Disulfobenzaldehyde.
Sec. 1166. m-Hydroxybenzaldehyde.
Sec. 1167. N-Ethyl-n-(3-sulfobenzyl)aniline, benzenesulfonic acid, 3[(ethylphenylamino)methyl].
Sec. 1168. Acrylic fiber tow.
Sec. 1169. Yttrium oxides.
Sec. 1170. Hexanedioic Acid, polymer with 1,3-benzenedimethanamine.
Sec. 1171. N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine.
Sec. 1172. Aluminum tris (O-ethyl phosphonate).
Sec. 1173. Mixture of disperse blue 77 and disperse blue 56.
Sec. 1174. Acid black 194.
Sec. 1175. Mixture of 9,10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-and disperse blue 77.
Sec. 1176. Copper phthalocyanine substituted with 15 or 16 groups which comprise 8-15 thioaryl and 1-8 arylamino groups.
Sec. 1177. Bags for certain toys.
Sec. 1178. Certain children's products.
Sec. 1179. Certain optical instruments used in children's products.
Sec. 1180. Cases for certain children's products.
Sec. 1181. 2,4-Dichloroaniline.
Sec. 1182. Ethoprop.
Sec. 1183. Foramsulfuron.
Sec. 1184. Certain epoxy molding compounds.
Sec. 1185. Dimethyldicyane.
Sec. 1186. Triacetone diamine.
Sec. 1187. Triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl) propionate].
Sec. 1188. Certain power weaving textile machinery.
Sec. 1189. Certain filament yarns.
Sec. 1190. Certain other filament yarns.
Sec. 1191. Certain ink-jet textile printing machinery.