

Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walsh
Wamp
Waters
Watson

Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker

Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

Emerson
English
Everett
Feeeny
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)

Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder

Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce

Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)

Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)

Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wynn

NAYS—11

Boucher
Cooper
DeFazio
Flake

NOT VOTING—12

Combust
Davis (TN)
Doolittle
Gephardt

Ose
Paul
Rohrabacher
Royce

Sanders
Stark
Taylor (MS)

Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrist
Gillmor
McCrery
McHugh
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula

Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)

Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland

NOT VOTING—12

Combust
Davis (TN)
Doolittle
Gephardt

Hyde
Jones (NC)
Kolbe
McCarthy (MO)
McInnis
Paul
Souder
Walden (OR)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair reminds Members that there are 2 minutes remaining to vote.

□ 1205

Mr. DEFAZIO and Mr. TAYLOR of Mississippi changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on House Resolution 168 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on which the yeas and nays are ordered.

This will be a 5-minute vote. Any electronic vote that might be ordered on the question of adopting the rule also would be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 245, nays 177, not voting 12, as follows:

[Roll No. 99]

YEAS—245

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggart
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner

Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble

Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Cuberson
Cummings
Cunningham
Davis (AL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLahunt
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Dreier
Duncan
Dunn
Ehlers

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel

NAYS—177

Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind

Klecza
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (during the vote). The Chair reminds Members that there are 2 minutes remaining to vote.

□ 1213

Ms. KILPATRICK, Messrs. LANTOS, WYNN and MORAN of Virginia, Mrs. MALONEY, Mr. MCINTYRE and Mr. BELL changed their vote from "yea" to "nay."

So the previous question was ordered. The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KOLBE. Mr. Speaker, earlier today, I was unavoidably detained and missed votes on the following measures:

1. Final Passage of H.R. 522—Federal Deposit Insurance Reform Act of 2003 (No. 98). Had I been present, I would have voted "yea."
2. Previous Question on the Rule providing for consideration of H.R. 743—Social Security Protection Act of 2003 (No. 99). Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to. A motion to reconsider was laid on the table.

□ 1215

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Mr. Speaker, pursuant to House Resolution 168, I call up 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 program protections, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill. The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 168, the bill is considered read for amendment.

The text of H.R. 743 is 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 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.

“(i) 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 (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)”;

(3) 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 (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)”;

(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).”.

(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)”;

(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:

"(I) 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 result-

ing 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, and Fugitives”;

(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), 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 Rev-

enue 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 (with 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) and (b) 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)”;

(2) by adding at the end the following new sentence: “In the case of any calendar year beginning after the date of the enactment of the Social Security Program Protection Act of 2003, 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 \$10 shall be rounded to the next lowest multiple of \$10, 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 date of the enactment of the Social Security Program Protection Act of 2003, 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 \$10 shall be rounded to the next lowest multiple of \$10, 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 3 years after the date of the enactment of this Act.

(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 for each day during which the member is engaged in performing a function of the Board. 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 the last day she was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day she was employed by such entity and ending with such last day”.

(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 the last day he was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day he was employed by such entity and ending with such last day”.

(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 the last day she was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day she was employed by such entity and ending with such last day”.

(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 the last day he was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day he was employed by such entity and ending with such last day”.

(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 the last day the individual was employed by such entity” and inserting “if, throughout the period beginning with the period of 60 calendar months preceding the last day the individual was employed by such entity and ending with such last day”.

(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 INDIVID-

UALS.—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. The amendment printed in the bill is adopted.

The text of H.R. 743, as amended, is 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)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual; 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 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 Com-

missioner 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)”;

(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.”;

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

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

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

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

“(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)”;

(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).”;

(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”;

(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”;

(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)”;

(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:

“(1) 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)”;

(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)”;

(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. After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in House Report 108-54, if offered by the gentleman from Texas (Mr. GREEN) or his designee, which shall be considered read, and shall be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 30 minutes of debate on the bill, as amended.

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

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

This afternoon I am pleased to present to the House for its consideration the Social Security Protection Act of 2003, which is bipartisan legislation that fights fraud and abuse in Social Security programs.

First, this bill protects nearly 8 million beneficiaries who cannot manage their own affairs and rely on representative payees appointed by the Social Security Administration. It does this by raising payee standards and by imposing stricter penalties on those who mismanage the benefits they are entrusted to administer.

Second, this bill denies Social Security benefits to fugitive felons and probation and parole violators. Third, the Protection Act provides tools to further safeguard Social Security programs including new civil monetary penalties.

Finally, this bill helps people with disabilities by giving greater access to legal representation when applying for benefits by improving work incentive programs and by expanding eligibility for the Work Opportunity Tax Credit to encourage more employers to hire individuals with disabilities.

Despite the fact that a majority of the Members voted to pass this bill last month, the needed two-thirds approval

required under suspension of the rules was not achieved. That is because special interest groups betrayed Social Security and America's seniors to appease the few who believe they could get special treatment and be allowed to exploit an unintended loophole that presently exists in the law. These groups misinformed both public and the Congress by falsely claiming that teachers and other public servants who pay into a public employee pension plan instead of Social Security are being singled out for unfair treatment. According to the General Accounting Office and the Social Security Administration, these claims are false.

In fact, government workers who do not pay Social Security taxes receive higher spouse or widow benefits than workers who do, given equal retirement benefits from work. By taking advantage of the loophole, a select group of public employees receives full Social Security spouse and widow benefits that no other working spouse in America receives, including other teachers who pay into Social Security for their entire career.

I want to share this example provided by the Social Security Administration because it shows so well that assertions of targeting public servants for unfair reduction in spousal benefits are just simply incorrect.

As this placard will show, we are comparing two working couples, the Bakers and the Smiths. They have equal retirement benefits from their work. In both cases the husband receives a Social Security work benefit of \$1,200 per month, and the wife receives \$300 per month based on her work. They are equal in every way except that Mrs. Baker paid Social Security taxes and receives her benefits from Social Security, but Mrs. Smith paid into a public pension plan instead of Social Security and receives her benefits from that plan.

Both Mrs. Baker's and Mrs. Smith's spouse benefits are reduced. Mrs. Baker's spouse benefits of \$600, which is one half of her husband's benefit amount, is reduced \$1 for every dollar of her Social Security benefit, providing her with a \$300 spouse benefit. Mrs. Smith's spouse benefit, also \$600, is reduced \$2 for \$3 by her public pension benefit, providing her with a \$400 spouse benefit.

The end result, Mrs. Smith's benefit is \$100 higher than Mrs. Baker's, even though Mrs. Baker paid her whole career into Social Security. Clearly, Mrs. Smith is not being discriminated against because she paid into a public pension plan instead of Social Security.

Mrs. Smith has a twin sister, Mrs. Jones, who is also a teacher; but Mrs. Jones was a teacher in Texas who switched to a school cafeteria job on the last day and paid Social Security taxes in for that last day. Mrs. Jones has an advantage over every other working spouse in America. She receives both her worker's benefit and

full spousal benefit. As a result her spousal benefit would be \$300 higher than Mrs. Baker's and \$200 higher than her twin's. Clearly, for someone who worked 1 day under Social Security, that is just plain unfair.

Every Member of Congress deeply appreciates the valuable contribution of teachers and public servants and all workers, whether they be in Texas, Georgia, Florida, or New York. However, no single group of workers should have an unfair advantage over workers in other school districts, in other pension systems, or all across this Nation.

We absolutely need a full discussion of all Social Security provisions affecting public employees, which is why the Subcommittee on Social Security will have a hearing on these issues and legislative opportunities in the coming weeks. While we want to make Social Security fair for all workers, we must take care not to worsen Social Security's already bleak fiscal picture or undermine the principle of Social Security as an earned benefit. It is an earned benefit. That would negatively affect both government workers and all Americans who depend on Social Security.

This bipartisan bill does the right thing and has the support of many organizations. It was developed using recommendations from and in cooperation with the Social Security Administration and the Social Security Inspector General. It is also supported by the AARP, Citizens Against Government Waste, the National Conference of State Social Security Administrators, the Consortium for Citizens with Disabilities, the National Alliance for the Mentally Ill, the Association of Administrative Law Judges, the National Organization of Social Security Claimants' Representatives, and numerous other national and local law enforcement agencies and organizations.

We should protect senior citizens from unscrupulous representative payees skimming off of the top. We should prevent fugitive felons and probation or parole violators from using Social Security dollars to finance their illegal activity. We should pass H.R. 743 to stop this fraud and abuse in Social Security and in the process save the taxpayers \$655 million over the next 10 years.

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

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

Mr. Speaker, I would like to commend my colleague from the State of Florida (Mr. SHAW), the Chair of the Subcommittee on Social Security of the Committee on Ways and Means. We entered into a bipartisan discussion, and we have a bipartisan bill at this time.

The gentleman mentioned the Inspector General of the Social Security Administration. The Social Security Administration and the beneficiary community all came together last year to put this piece of legislation together. It

was essentially the same bill that passed last year, and just 2 weeks ago it came again before the House Committee on Ways and Means and passed on a 35 in favor of to two against vote count. So this is a good bill. I hope we have final passage in favor of this piece of legislation.

I might just very briefly go over the points of the legislation. One, it deals with representative payees; and basically what this means is that when we have a person who is perhaps mentally disabled, a minor, or somebody who is a frail elderly, they may not be able to collect the benefits themselves or know how to handle their benefit, Social Security benefits, that is. So we have a representative payee that will take the money and make sure that proper accounting of the money is taken care of. Essentially in some cases we have had representative payees where they have actually absconded with the money. This would tighten up the laws on representative payees and, secondly, would make sure that beneficiaries are held harmless and receive the full benefits even when the representative payee takes the money from them. It also would provide a greater legal representation for SSDI recipients, those people that are seeking disability benefits under Social Security, by providing for greater legal representation by changing some of the requirements for lawyers under the Social Security Administration Act.

Lastly, it would deny benefits to fugitive felons. Right now under the law, through the quirk in the law, unfortunately, fugitive felons are able to receive Social Security benefits, and this would deny those benefits to fugitive felons.

There are a number of other technical provisions in the legislation. One area I might just spend a few moments on is the one that my colleague from Florida talked about, and that is the government pension offset issue. As the Members know, this legislation was passed in 1976. It did not take place until the mid-1980s. It was not fully put in place until the 1980s. It was basically to take care of the disparity where one of the spouses has two employments over a period of their lifetime of work, one in the local or State government and one in the private sector. So one would then be eligible for both Social Security benefits and also eligible at the same time for a government pension.

Under the law that currently is in place, a surviving widow or widower in this circumstance would have a reduction in their benefit level, depending upon the size of their pension. It was a law to try to correct an inequity. Unfortunately, the government pension offset has in some cases been fair but in many case has been unfair. One, many of the recipients do not know until actually their spouse dies that they are subject to that rule, in which case all of a sudden their lives have become totally disruptive. In fact, we

have calculated, and studies have shown this, that when one spouse dies, it still requires 80 percent of the former income that the couple had in order to live comfortably, and this in many cases drops that income level down to 30 or 40 percent of what they received when they were both alive. So there is a problem with this piece of legislation.

What the gentleman from Florida (Mr. SHAW) and I have attempted to do was strengthen the potential loopholes that some call it loopholes and some say it is only a way to make sure their benefits are collected properly.

The gentleman from Florida (Mr. SHAW) has indicated that he intends to hold hearings on the government pension offset issue, and we really appreciate that because I believe that some action should be taken in this Congress on that issue.

□ 1230

Obviously, we cannot reinstate full benefits, but perhaps there is some way we can at least help these recipients that are subject to this rule so that they will be able to continue on when one of the spouses passes away.

It is, however, a situation now where some of my colleagues feel that they have a problem with this particular provision. This provision was not in the bill last year to close this provision on the government pension offset; it was added to the bill in this Congress, and many of my colleagues have questions about it.

It would have been my hope that we would have dealt with this issue and the larger issue of trying to deal with the government pension offset, because in this situation it would put pressure on all of us to try to deal with this comprehensively. But we do have it before us at this time, and as many of us know, the gentleman from Texas (Mr. GREEN) will have an amendment in which he will move to strike that one provision out of this legislation.

I intend to support his motion to strike this by way of an amendment but, at the same time I would hope that my colleagues on both sides of the aisle would support the final passage of this legislation, because it is a good bill and certainly we do believe that the other provisions of this legislation must move forward.

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

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume. Very, very briefly, what the gentleman from California said about people receiving bad information from the Social Security Administration is absolutely correct, and we are working on that. This came out at the hearing that we had, and this is something that our committee will be addressing.

Now, the reason that the correction, as far as the unfair benefits being paid out to people who never really paid into Social Security more than one day of their working life, that information

did not come out from the General Accounting Office until after we passed our bill last June.

The Democrat-controlled Senate, however, did have the benefit of the General Accounting Office study when they passed their bill, and they passed it by unanimous consent and they attached this provision to it.

This is not a partisan issue. I understand the problems within certain States and those are only two States, by the way, Texas and Georgia. However, for the rest of this country, it is looking at Georgia and Texas as an unfair abuse of the Social Security system because of the inartful drawing of that one provision. This is what we are trying to correct here this afternoon.

Mr. Speaker, I would say to the gentleman from California (Mr. MATSUI) that at this particular time I do not expect to use all of our time on general debate. We have already been through this on suspension. I would invite the gentleman to put a couple of speakers up at this time.

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

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

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI), our ranking member on the Subcommittee on Social Security, for yielding me this time.

One thing I do agree with the chairman of the Subcommittee on Social Security about is that we should reform the government pension offset. Instead of talking about technicalities or ways that people have figured a way around it, we ought to look at the whole issue. There has been legislation cosponsored by the majority of this House for 3 years, but we have not had a hearing yet on dealing with that. That is what is frustrating.

So instead of dealing with the big issue, they are going to say, okay, for those teachers or firefighters or police officers in Texas or Georgia or whatever other States, they are going to punish those because they found a way under current law to be able to receive their widows' benefits. We are talking about widows' benefits. I do not know about the GAO study or whatever they wanted to talk about, but I do know that we are talking about widows' benefits.

Let me give an example. I have a lady in my own district in the Aldine School District; her husband passed away 10 years ago. She has been receiving his Social Security widow's benefits. She teaches school. She is 73 years old now. After decades of teaching math, she is ready to retire; but if she retires, she will have her widow's benefits under Social Security reduced so substantially that there will almost be nothing left, because of her teacher retirement under the State of Texas.

Now, again, I do not know how the request was made for these GAO studies, but I do know that the facts on the

ground show something different than what my colleagues say. This teacher will have to wait to retire. She would have to go to work for 5 years at a school that has Social Security. Well, she does not have that choice. We have some districts in Texas who do, some who do not. Very few actually do. So she would have to be 78 years old under the bill to be able to continue receiving her widow's benefits. That is wrong. That has been wrong, and it is affecting so many people. That is why we have an amendment, and I thank the Committee on Rules for giving us an opportunity to strike that section.

We have an opportunity through that amendment that will do it. Let us deal with the whole issue, but let us also support the amendment that will leave this provision in here for people who need it.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

I first would like to thank the chairman of the subcommittee, the gentleman from Florida (Mr. SHAW), and also the ranking member, the gentleman from California (Mr. MATSUI) for the work that they have done on this legislation.

Certainly, those of us who have worked on this issue in the past know that we need to deal with these issues for all of those beneficiaries who are out there trying to collect their well-earned Social Security benefits, and also for those who have in the past had difficulties going before the Administration, the Social Security Administration, to get the benefits they deserve. Too, oftentimes we find that some of the folks that are now trying to collect their benefits are old, disabled; in many cases they have become incompetent and cannot do some of these things for themselves, and we have had to find ways to help them move their case along. The "representative payee" program has been a good one. Oftentimes, unfortunately, it has been abused by some, and we are trying to make sure that we forever guarantee that those people who have earned these benefits will get them and not someone who is trying to take advantage of them and claims to be providing advocacy on their behalf.

This is a good bill. H.R. 743 was a bill that was passed last year by this House. I hope it does have a chance to become law this year. I do want to support, and I associate myself with the words of the gentleman from Texas (Mr. GREEN) who spoke. We have an issue with the government pension offset that we must address. We must address it in a way that deals with reform in its entirety.

Many of us have talked about the need to make sure that we strengthen Social Security into the future. There

are a lot of folks, teachers, police officers, firefighters, who find that because they have not been in the system, or if they have been in part of the system for part of the time, the treatment that they will receive is different from those who have been within Social Security or completely outside of Social Security throughout the process. We must deal with this.

To some people who may be watching, it may seem confusing what we are talking about with regard to the government pension offset but, really, the bottom line here is whether you understand GPO and what it stands for or not. What we are trying to do is make sure the system under Social Security is fair for everyone. At this stage there is an issue that has been raised whether or not through this legislation we should be trying to make changes to the GPO.

I would urge all of my colleagues to support the bill, and I also urge my colleagues to support the Green amendment that he has offered today.

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

Mr. RODRIGUEZ. Mr. Speaker, let me take this time to also rise and say that we really need to look at that government pension offset.

The government pension offset unfairly reduces the retirement benefits of public employees who have dedicated their lives to serving their communities and our children. Many of those impacted expected to receive the Social Security benefit that their spouse earned, and we are talking about the majority, almost 90 percent are women that are widowed. So if we look at what we are doing, it is extremely discriminatory towards those women in this category. Often they remain unaware of the offset until they reach retirement age.

Educators are shocked to learn that their decision to enter the education profession, often at considerable financial sacrifice, has caused them to lose benefits they have counted on. The resulting loss of income forces some into poverty and despair. Section 418 of the Social Security Protection Act would close the so-called loophole that allows educators in my home State of Texas to avoid the unjust and harsh impact of the government pension offset by transferring it to the school districts covering Social Security just before they retire.

I would like to add that I am not alone in this. Mr. Speaker, 176 other Members of this House from both sides of the aisle have cosponsored legislation to eliminate this provision. If Members agree that this provision is unfair, I would strongly urge them to vote in favor of this amendment when it comes forward and to vote against this bill.

Once again, I asked the chairman on the Republican side to bring this forward and try to deal with this, because it is extremely important. I know we

have argued about offshore and allowing companies to go offshore and have that loophole for the major companies. But when it is a loophole that applies to women and widows, we need to look at that and see if we can come back, and I would just ask the chairman and appeal to him to bring forward that bill and have an up-or-down vote on the entire bill and allow it to go and impact throughout the counties for these teachers and those individuals and those widows that fall under that category.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BRADY), a member of the Subcommittee on Social Security.

Mr. BRADY of Texas. Mr. Speaker, I support this bill. Let me address my remarks toward the teacher loophole portion of this, because this is what we are discussing the most.

I admire teachers. They are hard-working and incredibly dedicated, as we all know. They are my friends, my sister-in-law, and my next-door neighbor, literally. But keeping open the Texas teacher loophole is terribly unfair.

The loophole practice was first reported to the fraud hotline of Social Security a few years ago. A subsequent investigation by the General Accounting Office followed and, upon their finding that millions of dollars were being siphoned from Social Security, the recommendation was made to Congress to close it. The Senate voted 99 to 0 to close it. But that is why we are here today in the House, to preserve the integrity of Social Security.

This is how the loophole works in Texas, in my State. Teachers in the State retirement system do not pay into Social Security. They have opted out. They pay instead into a substitute retirement plan, the teacher retirement system of Texas. As they near retirement, a Texas teacher resigns from her school district. She pays then another school district that is in Social Security; she pays them between \$200 and \$500 to work for them 1 day, in the cafeteria, doing maintenance, or as a clerical aid. Typically, for that 1 day of work, the teacher contributes \$3 into Social Security and thanks to the loophole, collects nearly \$100,000 in Social Security benefits over her retirement. That is \$3 into Social Security, \$100,000 taken from Social Security. This is terribly unfair. It is unfair to all of the teachers in other States who have no loophole. It is unfair to all the working families in Texas, in America, who have no loophole, including our soldiers overseas; and it is certainly unfair to our elderly who, even if we close the loophole today, will see \$450 million drained from their Social Security Trust Fund.

On the Web site for the Texas Federation of Teachers, their President, John Cole, describes the loophole as a trick and proudly proclaims the gimmick is perfectly legal. The gimmick is perfectly legal.

Well, the gimmick may be legal, but is it right? Virtually no other worker in Texas or America can take a job in a school cafeteria for a day, contribute \$3 into Social Security, and walk away with nearly \$100,000 more than their next-door neighbor. How do we justify this? We would not allow someone to spend 1 day as a substitute teacher and take home \$100,000 in teacher retirement, so why would we allow a teacher to work 1 day in Social Security and take home \$100,000 they did not earn?

Alarming, this 25-year-old obscure loophole just recently discovered is now being institutionalized. In Texas, in my home State, teachers groups regularly hold retirement seminars to instruct their members on how to take advantage of the loophole. Some school districts make as much as \$280,000 a year. That is a quarter of a million dollars a year, charging fees to teachers to work for them for just a day. During the General Accounting Office investigation, they even discovered one Texas university has gone so far as to regularly schedule 5 days per year where university professors can work their last day as a janitor under Social Security, contribute \$3, and receive an extra \$100,000. That is \$100,000 that university professors in other States cannot earn, because they do not have a loophole. And it is \$100,000 the janitor they worked alongside of cannot earn either, because they do not have a loophole.

We are not going to create two classes of citizens in America, those who have loopholes and those who do not. Congress has a clear choice. We can keep open this lucrative loophole for a few that is draining \$450 million from everyone else's Social Security, or we can stand up for our seniors, stand up for our elderly, stand up for the 99 percent of America's workers who are playing by the fair rules.

□ 1245

If we insist on keeping this loophole open, Congress, I think, has forfeited any future credibility to claiming to protect Social Security for our seniors. We will rightly be labeled hypocrites.

What can we do to help our teachers, but still be fair to America? The question has been raised today, and it is a fair one. I am convinced the answer lies in repeal or at least modification of the windfall elimination provision, which docks workers who have earned both the Social Security retirement and the government pension. I think the principle we should be applying is this: if you have earned two pensions, you should receive two pensions.

I have asked the chairman of the Subcommittee on Social Security, the gentleman from Florida (Mr. SHAW), to hold hearings on the windfall provision; and he has agreed. I appreciate his willingness to promptly study the impact and fairness of the windfall provision as it relates to today's retirees.

I think we will find when we do study it, and I am in total agreement with

our teachers on this, that the windfall makes it much more difficult to recruit into teaching the professionals who have had other careers. I think it penalizes educators who held a second job in order to make ends meet. Teachers tell me this would go a long way towards helping them. And best of all, it is not a gimmick. It is fair for them, and it is fair to the rest of America.

I urge the House to pass H.R. 743 without amendment. We must not allow our precious Social Security to be drained away; and most importantly, we cannot create two classes of citizens in America, those who have loopholes and those who do not.

Mr. MATSUI. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

Mr. DOGGETT. What a truly disappointing presentation. Mr. Speaker, this is not about "gimmicks," and it is not really even about Texas teachers. It is about whether this Congress will have on the floor of the House its first ever vote in recent memory on correcting the Government Pension Offset and Windfall Elimination Provision.

Last year, when the constituents of the gentleman from Texas (Mr. BRADY) contacted him about this, he said that these provisions seemed to be "most unfair." He pointed out, quite correctly, that "about 40 percent of the total number of affected beneficiaries are widows and widowers"; that "240,000 affected beneficiaries are women."

I think that we need an opportunity in this Congress to address the Government Pension Offset. When the gentleman from Florida (Mr. SHAW) released the GAO report to which he has referred today, although he and the gentleman from Texas (Mr. BRADY) use terms like "fraud" and attack the professional associations of our teachers in Texas, although he even has the audacity today to invoke our soldiers overseas against our police officers and our firefighters and teachers who deserve a GPO correction, when the gentleman from Florida (Mr. SHAW) introduced the GAO report, he said "The apparently growing use" of what he calls a loophole "is only a symptom of general concern about whether the GPO itself is fair. . . . That is why my plan . . . would reduce the Government Pension Offset." [Aug. 15, 2002 press release]

His plan that he refers to is the one that he and the gentleman from Texas (Mr. BRADY) voted against when we presented it in the Committee on Ways and Means. It is the plan which the Committee on Rules made out of order today. Not Texas teachers, not "gimmicks," not the Texas Federation of Teachers, but police officers in New York City and firefighters in San Francisco, and everyone in between who has been a public servant and who has suffered as a result of this Windfall Elimination Provision, they are the ones that they are standing against today.

"GPO" stands for "Government Pension Offset." It cuts into the retirement security of dedicated public servants, like firefighters, police officers, and teachers who provide us physical and economic security and who need retirement security. "GPO" really means "gouge police officers," and it gouges our teachers and firefighters seeking their well-earned retirement security.

GPO also stands for "good photo opportunity." That is what is involved here. Whether it is police officers, firefighters, or teachers, Members are eager to stand with them and get their picture taken. But when it comes time to vote with them and protect their retirement security, they come up with one excuse after another.

This provision dealing with the self-help provisions that Texas teachers have used, and used in accordance with the letter of the law as written, specifically as written by this Congress, was buried on page 70 of the original bill. They did not even have the courage to bring it up for a vote in the committee at that point, or to wait until our Texas teachers could be here.

An apt analogy to what is happening here today is to find oneself driving down a highway and seeing a senior citizen, a retired teacher, pulled off along the side of the road with a flat tire.

The reaction of most folks is to stop and help. Well, the Congress comes along and it stops to help. It tells the retirees, "You cannot fix this problem yourself," the way our Texas teachers have done, "that is our job." Then, while the senior waits for help, the Congress gets back in the car and drives off, leaving them stranded beside the road.

That is exactly what has happened here as this Republican Congress refuses to address the problem that our Texas teachers and our firefighters are rightly concerned about. Instead, they pick up a tire iron all right, but they are using it on our retirees, not the flat.

The GPO bills introduced and never set for a hearing or never voted on will never provide retirement coverage, only political coverage. When Members pose with public servants for a good photo opportunity, a "GPO," they hope those employees will not notice that: When they smile, the real message is, "I am standing with you, but I am not voting with you."

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

Mr. Speaker, I must say, and be sure that all the Members that are listening to this debate know, this debate has nothing to do with the Government Pension Offset that the last speaker was referring to. That particular provision has a price tag of \$9 billion.

As chairman of the Subcommittee on Social Security, I would like to correct that, or at least go halfway towards correcting that. But part of my job as chairman of this subcommittee is also

to protect the integrity of the Social Security program itself. To go off willy-nilly and start throwing dollars out means the demise of the Social Security system. It will come up short well before 2016, which is the day on which the cash coming into the system is not enough to pay the benefits. We have to be concerned about that.

We are going to have hearings on the Government Pension Offset, and try to find ways to pay for it. But we have to pay for it within the system. To do otherwise would be just plain reckless.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), a distinguished member of the subcommittee.

Mr. HULSHOF. Mr. Speaker, I thank the gentleman for yielding time to me.

The gentleman from Texas (Mr. DOGGETT) who spoke last has regaled us on a number of occasions with some interesting and I would say provocative speeches over the last couple of years about the use and abuse of tax shelters. He has proclaimed himself, Mr. Speaker, the defender of the individual taxpayer against abusive corporate tax shelters. He has often cited Enron when that issue was before Congress. He has railed against the expansion of the business meal deduction, saying taxpayers would subsidize \$400 bottles of wine, a thinly-veiled swipe at the former Speaker.

In the immediate aftermath of September 11, in the committee he went as far as to say that Republicans on the committee were looking for tax cuts for Osama bin Laden. Now he attempts to wrap himself into the fireman's coat and shield himself with the policeman's shield. It is just not so.

Section 418 of the Social Security Protection Act closes a loophole. The General Accounting Office says this about that loophole: "4,819 individuals from Texas and Georgia have performed work in Social Security-covered positions for short periods, and in fact even for a day, in order to offset" or get away from this government pension offset in this exemption.

This is a loophole, a loophole that is being exploited. In 2002, one-fourth of all the public education retirees in the State of Texas took advantage of this loophole.

Let me give an example of an egregious type of way that this is being exploited, and unfortunately, much to the chagrin of other hardworking Social Security payees across the country. School officials reported individuals were taking, or one individual traveled 800 miles one way, 800 miles, a two-day trip, to be employed for a single day, traveling back 800 miles back to that person's home in order to get away from this loophole.

As my friend, the gentleman from Texas (Mr. BRADY), noted, a lot of these school districts are seeing the money flow in because they are charging these retirees, these teachers, a processing fee for their school districts. Ultimately, what it means is that

these workers are seeing their annual pensions increased by the tune of about \$5,000 a year to which they are not entitled.

So we can talk about the government pension offset all we would like, or the windfall elimination provision. Yet what we are trying to do is root out waste, fraud and abuse. The General Accounting Office has told us clearly and unequivocally this is a loophole that is being exploited, and it is time that this Congress acted to close this loophole, because other retirees are the ones that are losing the advantage of their social security.

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

Mr. Speaker, I would like to just make a couple of observations, if I may. I appreciate the Chair of the subcommittee on Social Security of the Committee on Ways and Means, his discussion.

I just want to point out, the President had said during the campaign of 2000 that he wanted to reform Social Security. He came up in 2001, December of 2001, with a commission report and three recommendations all dealing with privatization of Social Security. The gentleman himself has come up with a privatization plan. We still have not seen Social Security reform in the committee, nor have we seen it on the floor of the House.

Initially, I was hoping to take care of the GPO under Social Security reform. Obviously, we cannot do it because there is no intention of bringing Social Security reform to the House floor until after the 2004 election, after the President presumably is reelected. So it is unfortunate we have to deal with this issue now.

I also want to say that with respect to the gentleman from Texas (Mr. DOGGETT), he was trying to deal through the whole issue of corporate shelters with things like the Bermuda inversion issue, in which companies in the United States went offshore in order to avoid U.S. taxes, thereby increasing taxes for individual citizens. These are the things that he has been working on.

Lastly, this is about the government pension offset, to a large extent; it is not about loopholes. The reason I say this, just 3 weeks ago the gentleman voted, the gentleman who just spoke voted in committee on a piece of legislation actually in which we were going to try to give benefits to our young men and women overseas, in the Persian Gulf at this time, by adding little provisions like eliminating taxation on foreigners who actually bet on U.S. gaming and horse races.

These are the kinds of things that are real loopholes. These are the things that are loopholes. These are ordinary citizens who are just trying to deal with their own livelihood when one of their spouses dies.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I am so pleased that the last speaker raised

this issue of corporate loopholes, because it is the same crowd that stood in the Committee on Ways and Means repeatedly and on the floor of this House and has defended corporations that renounce their citizenship and head off for tax havens like Bermuda. They say that this is fine, that this is legal, and that we do not need to do anything about it.

As to the Government Pension Offset and the issue of the alleged "loophole" in Texas, what the gentleman failed to mention is that we offered in committee to close the alleged "loophole" for Texas teachers, but to do it in connection with reforming the GPO problem that they have consistently refused to correct all this time. Fix the two together.

We make them that same offer today. This is not about gimmicks in Texas, it is about people that file bills, as the gentleman from Florida (Mr. SHAW) has done, that they never intend to move through the Congress; file bills they do not even get a hearing on, and say they are on the side of the firefighters, police officers, and teachers while doing nothing for them.

Mr. SHAW. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, again I would say to the gentleman who just spoke, who has self-proclaimed his time here as far as trying to shut down these corporate abusive shelters, in existing law that the Social Security Protection Act attempts to protect is a loophole that is being exploited, a single-day exception where workers attempt to get around this law.

Perhaps if the gentleman's constituents had set up post office boxes in Bermuda, perhaps we would see some righteous indignation in favor of this legislation instead of opposed.

□ 1300

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise to make an argument outside of the scope of this latest controversy, though I will say the sooner this Congress deals with the GPO issue, the better, because it is a very important issue back in my home State of Maine. But I do rise in support of this bill, H.R. 743.

I commend the work of the chairman of the subcommittee, the gentleman from Florida (Mr. SHAW) and the ranking member, the gentleman from California (Mr. MATSUI) for their effort to bring this bill forward.

I want to confine my remarks to one particular section of the bill, section 414. That section will directly benefit one of my constituents, Nancy Wilson of Bremen, Maine. Nancy Wilson has been denied Social Security benefits through a quirk in the law for more than 10 years, and thanks to the efforts

of the Committee on Ways and Means, H.R. 743 will fix that quirk and will enable Nancy Wilson to receive the benefits to which she otherwise would have been entitled.

Since the 105th Congress I have been working to pass legislation that would assist Mrs. Wilson. In both the 105th and 106th Congresses, private legislation passed this House but was not acted on by the other body. Since then the Committee on Ways and Means has graciously worked with me in both the 107th and 108th Congresses to include language similar to my bill, H.R. 249, in the Social Security Protection Act in order to help Mrs. Wilson.

As anyone who has worked with her knows, Nancy Wilson is a tenacious battler. She will not give up. She will not allow her elected representatives to give up until she receives the justice that she feels she deserves and that she does deserve. I hope with the passage of this bill, Nancy's efforts will finally be vindicated.

I urge the swift enactment of this legislation.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH), a distinguished member of the committee.

(Mr. HAYWORTH asked and was given permission to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the subcommittee for yielding me time, and I appreciate and applaud the remarks of my friend from Maine (Mr. ALLEN) across the aisle because it typifies, at long last, we actually had discussion on the bill we are working on this afternoon and the benefits it brings, rather than another convoluted process.

So let us focus on the legislation at hand, H.R. 743. The preceding speaker pointed out how it would directly help one of his constituents.

Mr. Speaker, let me suggest to you that this legislation will help thousands, if not millions, of Social Security recipients because it protects Social Security. First and foremost, we strengthen the ability of this government and the Social Security Administration to deny benefits to fugitive felons and probation or parole violators. We have such a huge system which so many Americans depend on that it is hard to believe, but true, there are actually felons and fugitives who have depended on Social Security and taken money out of the system. That is wrong. That is going to stop.

It deters fraud. It creates new civil monetary penalties for those who would commit fraud against our seniors and against Social Security recipients. It prevents persons from misrepresenting themselves as they provide Social Security-related services. We move to protect what so many Americans depend upon.

And I should also point out that one key group of constituents whom I was

honored to work with, with the Commissioner of the Social Security Administration, came to Arizona, to Tempe, Arizona, to issue our first ticket to work for a disabled member of our society who wanted to emphasize the ability in disability, we broaden and strengthen the ability with ticket to work. We help individuals with disabilities gain access to representation and to get back to work. We expand the eligibility for the work opportunity tax credits. Employers outside of a predesignated number in the past can take advantage of the work opportunity tax credit. It allows the Social Security Administration to examine alternative methods of encouraging work.

This is a good bill. Pass it on the merits. Support H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman 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, it is interesting, this is a good bill. I am frankly appalled that we have a situation where we have to fix the question of fugitive felons receiving Federal dollars, and I believe we should fix it. That is the point I rise to make, Mr. Speaker.

Forgive me for talking in a second-level voice, but this could have been a bill that all of us supported. My good friend from Arizona (Mr. HAYWORTH) stood a couple of years ago disagreeing with opposing the government pension offset. What we are trying to do is to fix it to make it work.

We offered, I understand, I am not on the committee but I understand that the gentleman from Connecticut's (Mr. SHAYS) legislation that could have fixed this question that we are concerned with about teachers and police and firefighters was offered in committee and was rejected along a party line vote.

Mr. Speaker, this is legislation that should be supported by all. We should have a 100 percent vote on the Green amendment, which I am supporting, for these teachers and widows that we are talking about. This is a simple amendment because what it does is this amendment works to correct the problem, and that is in 418.

This amendment is important to have. The legislation does nothing to remedy the GPO to make it fair to public servants. This amendment strips this one hidden offensive provision in this otherwise noncontroversial bill that deals with prohibiting a widow to be eligible for a pension based upon State, local, or Federal jobs, that is ridiculous, or requiring them to work an extra 5 years.

Now why, Mr. Speaker, we could not work together to ensure that we had a bipartisan bill. My voice is weak, it is broken, but I could not miss talking about this inequity.

Why are we here fighting about a bill that has some very good elements? Why are we here fighting over the Green amendment? It should be under unanimous consent, because it makes sense for people not just in Texas but in New York. And I think it is important, Mr. Speaker, to say here we go again, dividing unnecessarily along party lines on what is good for America. And frankly, I think we got a whole lot of work to do with our troops in Iraq in terms of benefits that they need and veterans benefits that they need and tax changes that they need. We could do this in a bipartisan way.

So I hope, Mr. Speaker, that we will find a way to unanimously support this Green amendment that will strike this language that puts elderly people back to work, and I hope we will find a way to correct this legislation so we have a bill that will have the support of all Members.

Mr. Speaker, I am saddened to have come to the floor today to speak out yet against H.R. 743. The Social Security Protection Act of 2003. This bill was broken last time it came up on the floor. Many public servants in our districts noticed that. We noticed it was broken and voted the bill down. But, here it is again—and it still has not been fixed. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

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 the 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 till now many teachers have been forced to take advantage of the "last day" loophole. 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 loophole. I am usually all for getting rid of loopholes, 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, last month 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 passed 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 unless the offending provision is taken out, and urge my colleagues to do the same.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes and 10 seconds to the distinguished gentleman from the State of Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise in opposition to H.R. 743 and I wish to express my strong support for the amendment offered by my friend, the gentleman from Texas (Mr. GREEN).

The underlying bill was rejected by the House last month when it was considered under suspension of the rules. Yet it is being brought before us again with the same objectionable provision that will hurt teachers, police officers, firefighters and other State and local workers in Texas and lots of States around the country.

H.R. 743 would compel experienced public servants to quit their jobs prematurely and work in the private sector for 5 years before they retire in order to avoid a reduction in their pension caused by the Social Security offset. We all know that our Nation has a critical shortage of teachers and public safety personnel. This provision would only exacerbate the problem.

That is why I support the Green amendment to strip this offending provision from the bill. Unfortunately, the Committee on Rules has prevented this House from considering a permanent fix to the problems associated with the government pension offset.

My friend, the gentleman from Texas (Mr. DOGGETT), proposed an amendment to the Committee on Rules that would end this policy that forces public employees to offset their State pensions against the Social Security benefits they have earned. But the Committee on Rules refused to allow the Doggett amendment to be considered today. As a result, State and municipal employees throughout the Nation will continue to be hurt by this unfair policy.

At a time when Federal and State budgets for education and public safety are being slashed, this is just one more slap in the face to those teachers and those public safety officers who are working hard to educate our children and protect our communities. We need to let them know that education and security are national priorities and that we value their dedication. I encourage my colleagues to move quickly to bring relief to teachers and other public employees by supporting the Green amendment.

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

Mr. HERGER. Mr. Speaker, I rise in strong support of the Social Security Program Protection Act. I would like to thank the gentleman from Florida (Chairman Shaw) and the other members of the Committee on Ways and Means who have worked tirelessly to improve Social Security programs that provide an important, crucially important, safety net for many of our Nation's neediest disabled and elderly individuals. These changes have been de-

signed 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 build upon the criminal welfare provision 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 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 my colleagues to join me today in supporting it once again.

Mr. MATSUI. If the Speaker may inquire whether the gentleman from Florida (Mr. SHAW) has any further speakers?

The SPEAKER pro tempore (Mr. LINDER). Does the gentleman from Florida (Mr. SHAW) have any further speakers?

Mr. SHAW. At this particular time I may close, depending on what I hear from the other side.

Mr. MATSUI. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from California (Mr. MATSUI) has 5 minutes remaining. The gentleman from Florida (Mr. SHAW) has 5½ minutes remaining.

Mr. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from the State of Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I think the debate has been good because it has talked about what the concern is, that we really need to deal with government pension offset.

I know there has been legislation introduced now for a number of years and that there is a commitment to have a hearing on it, but we have a bill right now; the latest legislation, H.R. 594, has at least 50 Republican Members and in a very short time has received almost 200 co-sponsors of it, that would eliminate the controversial government pension offset. And I guess that is what is frustrating because we have so much support to eliminate it or at least, as had been earlier talked about, let us moderate it. Do not punish widows that are public employees, two-thirds. Let us make them only pay one-third. Sure, they only worked a day maybe, but they are not getting it for their work under Social Security.

□ 1315

They are getting it because they were married to their spouse for at

least 10 years and, in some cases, 30 and 40 years; and yet, because they were public schoolteachers, they had to take advantage of that loophole because, otherwise if their husband died before they were 62, they did not receive anything. So they found a way under current law to seek redress, and this bill is going to close that loophole, supposedly.

Again, maybe it should be, if my amendment is adopted, I would like the committee to really bring out a reform during this Congress because, again, we have been waiting now for many years. In fact, my colleague from Arizona (Mr. HAYWORTH), I remember 3 years ago he and I stood at a press conference with lots of Members talking about we need to reform the government pension offset, and that is what ought to be done, but do not punish the States of Georgia or Texas or whatever other jurisdiction said, well, wait a minute, we know it is wrong, we know it is wrong to penalize a widow who teaches school.

For example, a colleague of mine from Texas has a military base, Fort Hood, with a lot of his constituents now in the Persian Gulf. They said we have a program that is called Troops to Teachers. Our armed services pay Social Security so they retire from the military, and yet they are going to go back to teach and they are going to be penalized for the Social Security they earned in the military if they retire in Texas from the teacher retirement system and they do not work for a school district that has Social Security.

The system is wrong, and my colleagues are making it worse by changing it by this bill; and this is what is so bad. My colleagues can show me all of the studies, but I cannot explain those studies to my constituents who are teachers who said you mean to tell me I have been married 30 years to my husband and everything because we are talking about 80 percent of these people are women, and we know nationally the retirement income for women is so much lower than men. We have teachers who have been married all these years, and sure, they are going to take advantage, but that is because they have been married to someone who paid into Social Security for at least 10 years, in some cases 3 or 4 decades.

Mr. MATSUI. Mr. Speaker, I yield myself the balance of my time.

This is a good bill. I want to commend the gentleman from the State of Florida, the Chair of the subcommittee. We put together a bipartisan bill. Obviously with the Social Security Administration, with the beneficiary groups and certainly with the Inspector General's office, and certainly this is a good piece of legislation.

I hope that each of my colleagues, as I, will vote for final passage of this legislation. Obviously, we do have one controversy here, and it is the government pension offset issue; and the gentleman from Florida has indicated he

will address this issue through a hearing of the subcommittee sometime in the near future, I believe after the April recess; and so I look forward to working with him with the idea of perhaps given the time constraints and other problems that we might have that we can really address this issue in a comprehensive way.

I do hope that there will be some way that we can vote in favor of the gentleman from Texas's (Mr. GREEN) amendment when it is offered in about 40, 45 minutes because I think that will keep the pressure on the institution, both bodies and the executive branch of government, to address this issue.

There is no question that many people are caught unaware when one spouse dies that they did not know about the government pension offset. It results in a reduction of their level of income by 40, 50, even in many cases 60 percent, and secondly, we do have to deal with the inequalities of the proposal. There is no question that in some cases it does actually help and it creates inequality in terms of people that have multiple jobs.

On the other hand, it does create some inequality, and as a result of that, we really need to address this issue in a comprehensive way; and given the fact we probably will not deal with Social Security reform in this Congress, it is incumbent on us at least to address this issue and perhaps a few other issues, as well, as long as they are not extremely costly.

Mr. Speaker, I urge a "yes" vote on final passage, a "yes" vote when the gentleman from Texas (Mr. GREEN) offers his amendment.

Mr. Speaker, I yield back the balance of my time.

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

(Mr. SHAW asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SHAW. Mr. Speaker, I place in the RECORD a large number of letters in support from police groups, fire groups, AARP, and a number of other letters.

AARP,

Washington, DC, March 5, 2003.

Hon. CLAY SHAW,

House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SHAW: On behalf of AARP and its 35 million members, I wish to commend you and Representative Matsui 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.

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, March 10, 2003.

Hon. CLAY SHAW, Chairman,

Hon. ROBERT MATSUI, Ranking Member,
Committee on Ways and Means, Subcommittee
on Social Security, House of Representatives,
Washington, DC.

DEAR CHAIRMAN SHAW AND RANKING MEMBER MATSUI: On behalf of the more than 1 million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I commend you both for introducing H.R. 743, the Social Security Protection Act of 2003. CCAGW supports this important legislation.

Passage of H.R. 743 would fiscally strengthen the Social Security program by reining in the loss of millions flowing away from beneficiaries each year due to waste, fraud and abuse. It strengthens the supervision of individuals and institutions that handle benefit checks belonging to others, bars Social Security payments to fugitives, and would allow federal courts to order an individual who breaks a Social Security-related law to make restitution to the fund.

The members of CCAGW also support your efforts to close the loophole regarding government pension offsets for Social Security benefits. This loophole has allowed thousands of individuals to receive Social Security benefits for previous employment for which they did not pay into the system. The Government Accounting Office (GAO) has recommended eliminating this loophole, estimating that failure to do so will cost the program \$450 million in long-term overpayments.

Enactment of H.R. 743 would boost solvency of the Social Security program and ensure that benefits would go to those who have earned it by instituting strict safeguards for annuitants and the programs on which they depend. This bill will be among those considered for inclusion in CCAGW's 2003 Congressional Ratings.

Sincerely,

THOMAS SCHATZ,
President.

NATIONAL CONFERENCE OF STATE SOCIAL SECURITY ADMINISTRATORS POSITION STATEMENT

Overview: This bill is intended to make changes to various sections of the Federal Social Security Act. One of the many changes provides for an extended period of employment in a position covered by Social Security in order to be eligible for the Government Pension Offset (GPO) exemption.

Current law: The current Social Security Act allows any employee to be exempt from the GPO if, on their last day of employment, they are in a covered position. While this little noticed provision has been in the law for many years it has recently become the subject of discussion and possible abuse. It has been noted that a number of employees who have worked in a non-covered position during their normal working career have switched over to a position covered by Social Security on their last day of employment in order to circumvent the GPO impact on their benefits.

This perceived abuse can be significantly reduced by the passage of this legislation. In addition, this change for the state and local government employees, brings the criteria into synchronization with the Federal employee requirements.

Position: The National Conference of State Social Security Administrators supports the changes proposed in section 418 of H.R. 743.

Contact: If you have any questions or comments regarding this Position Statement or other activities of the NCSSEA, please contact either Nicholas C. Merrill, Jr. (IL) Legislative Committee Chairman, at (217) 785-2340, or Steve Delaney, (OR) President, at (503) 603-7694.

NCSSSA background: Since its formation in 1952, the NCSSSA has worked closely with SSA and IRS to address social security and medicare coverage and employment tax issues raised by state and local government employers and state social security administrators throughout the United States. The NCSSSA works with federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of Federal tax policy, and resolution of problems arising at the state and local level.

NATIONAL COUNCIL OF SOCIAL
SECURITY
MANAGEMENT ASSOCIATIONS, INC.,
Hackensack, NJ, March 31, 2003.

Hon. CLAY SHAW,

Chairman, Social Security Subcommittee, House
Ways and Means Committee, Rayburn
House Office Building, Washington, DC.

DEAR CHAIRMAN SHAW: We appreciate that your efforts as Chairman of the Social Security Subcommittee have brought to light many issues that affect the stability and solvency of the Social Security program. Your continued attention to detail ensures that SSA recipients will be better served in the future.

One such issue is a loophole that currently exists in the law regarding the Government Pension Offset. The National Council of Social Security Management Associations (NCSSMA) favors the provision in H.R. 743, "The Social Security Protection Act of 2003," that closes this loophole that affects the Government Pension Offset.

As you are aware, legislation was enacted in 1977 creating a Government Pension Offset (GPO) to equalize the treatment of workers covered by Social Security and those with noncovered government pensions. The GPO prevents workers from receiving a full spousal benefit on top of a pension earned from noncovered government employment. The law, however, provides an exemption to the GPO if an individual's last day of state/local employment is in a job that is covered by both Social Security and the state/local government's pension system. That provision provides a loophole that needs to be closed.

The Government Accounting Office found last year that 3,500 teachers in Texas switched to clerical or janitorial positions covered by Social Security on the last day of their employment in order to avoid the GPO. The GAO estimates that use of the loophole thus far could cost Social Security \$450 million and even more if use of the loophole grows. Not closing this loophole would be fiscally irresponsible and unfair to other citizens who comply with the intent of the law. Therefore we favor the provision in H.R. 743 designed to rectify this problem.

Sincerely,

ANTHONY PEZZA,
President.

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 disabili-

ties 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, Rayburn House Office Building, 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 a 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.

Hon. CLAY SHAW, Jr.,
Chairperson, Subcommittee on Social Security, Rayburn House Office Building, Washington, DC.

DEAR CHAIRPERSON SHAW: I write on behalf of the Association 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 Supplemental 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.

Mr. Speaker, we are going to go into the amendment process in just a moment. I think it is important for the House to realize here that what we are talking about in all this debate has been on a very narrow point that really only affects basically one State, possibly two, and that is a question of where their particular pension law is written in such a way that it creates a loophole and gives their teachers, their firefighters, an advantage over the rest of the country.

This is not about teachers. It is not about widows. It is not about firefighters. It is about basic fairness.

So I would hope that in the final vote I think we will get a big vote in favor of the bill itself. I have no doubt about it, but I would urge the Members to defeat the amendment that is going to be offered by the gentleman from Texas (Mr. GREEN) that would preserve this loophole for these few people. It is just simply not fair.

Mr. REYES. Mr. Speaker, I rise today in support of the Green Substitute amendment to H.R. 743. This amendment would result in removing Section 418 from the bill. This section negatively affects teachers and other public servants in my state of Texas. This is unacceptable. Our hardworking teachers deserve more.

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 that teaching 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 penalized through this bill. These are people we should be protecting and rewarding. We should not make them pay for the tax cuts we give those who are more fortunate. For this reason I cannot support the original version of 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. This bill would be a more appropriate permanent solution to the unfair treatment of teachers' social security benefits. However, until we can pass that bill, I strongly urge my colleagues to support the Green Substitute, oppose H.R. 743 unless it is amended, and continue to support our teachers. I yield back the balance of my time.

Mr. PAUL. Mr. Speaker, I rise in reluctant opposition to HR 743, the Social Security Protection Act. While this bill contains many provisions worthy of support, it also removes the only means by which many widowed Texas public school teachers can receive the same spousal social security benefits as every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the The Government Pension Offset even applies if the public employee in question worked all the quarters necessary to qualify for full social security benefits either before or after working in the public school system!

The effect of the Government Pension Offset is to punish people for teaching in public schools! However, current law provides widowed Texas public school teachers a means of collecting the full social security spousal benefits. Unfortunately, this bill removes that option from Texas teachers. Since I believe the Congress should repeal the Government Pension Offset by passing HR 524, which repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full social security benefits, I must oppose this bill.

Instead of punishing public school teachers, Congress should be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (HR 613) which provides every teacher with a \$1,000 tax credit, as well as my Professional Educators Tax Credit act (HR 614), which provides a \$1,000 tax credit to counselors, librarians, and all school personnel. Congress should also act to protect the integrity of the Social Security Trust Fund by passing my Social Security Preservation Act (HR 219), which ensures that

Social Security monies are not spent on other programs. Congress should also pass my Social Security for American Citizens Only Act (HR 489), which ensures that non-citizens who have not worked the required number of quarters and illegal immigrants do not receive social security benefits.

Mrs. 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. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). All time having been yielded back, it is now in order to consider the amendment in the nature of a substitute printed in House Report 108-54.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREEN OF TEXAS

Mr. GREEN of Texas. Mr. Chairman, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GREEN of Texas:

Strike all after the enacting clause and insert the following:

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.
- 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)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(A) is not an individual; 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 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 pro-

visions 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))”; and

(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))”; and

(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))”; and

(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)”;

(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)”;

(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).”;

(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”;

(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”;

(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)”;

(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:

“(1) 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)”;

(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 determina-

tion 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—”;

(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.";

(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.";

(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:

"(i) 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 re-

spect 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.

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)”; and

(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 House Resolution 168, the gentleman from Texas (Mr. GREEN) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, we have had a great deal of debate already on the general debate, but I rise in opposition to the legislation in support of my amendment, and it is frustrating because there are some good things in this legislation, but I guess what is really frustrating is that why should a section of this bill be addressed to public educators, firefighter and police officers that happen to be in Texas or Georgia, and yet, in another section, we are trying to combat fraud by felons.

I agree, we should combat fraud by felons; and if we have felons who are receiving Social Security, felons who are absconding, I do not mind. In fact, why are we waiting this long to keep them from getting their Social Security? Do not go after widowed teachers, whose spouses paid into Social Security.

Eighty percent are women who receive fewer retirement benefits than men, and it is not just for teachers, firefighters in the same legislation. It just seems like it is wrong to put that issue in the same legislation due to felons receiving Social Security benefits.

In fact, I had a constituent last night say, you mean to tell me all these years I have taught and I am in the same legislation trying to close a loophole for fugitive felons receiving Social Security? I said, I am sorry, ma'am, but that is what it has. The bill has some other good things in it; but we have this amendment, and I appreciate the Committee on Rules providing this.

It is called a loophole, but it is really not. There are lots of loopholes in our laws, but it is called laws; and I know on our side of the aisle we have talked about corporate loopholes for a long

time. Let us close up the corporate loopholes, but why are we closing up one for the widowed teachers, again, who their only punishment is they worked as a public schoolteacher and was married to someone who paid into Social Security at least 10 years and, again, in some cases, many more years?

When the House first considered this legislation, it failed because of a controversial provision that we have, and the bill ought to pass, but it ought to be passed without this provision, and let us come back, get our Ways and Means subcommittee and the Committee on Ways and Means to deal with the government pension offset as a separate bill.

Last session, this legislation passed out of the House with, I do not think, any dissenting votes. It went to the Senate; and on a technicality, they added this back in, and it was stopped in the House when they tried to pass it on unanimous consent last fall and when most of us were in our districts.

In States where some public employees are not covered by Social Security, such as in Texas, this does reduce the spousal benefits by two-thirds, and in some cases, it can eliminate all of them, all their benefits. It is a problem for many public servants, but it is especially, again, bad for women, and, again, since 80 percent of the Texas schoolteachers and retirees are women. Sixty percent of that group is married, and again, I think it is interesting on the floor of the House because I always heard the statement, consistency is the hobgoblin of little minds, but here we have bills that can enforce marriage, why are people on social services, that encourage them to get married, and here we have teachers who are married for all these years, and yet we are punishing them under the pension government offset.

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

The SPEAKER pro tempore. Who seeks time in opposition?

Mr. SHAW. Mr. Speaker, I claim the time in opposition, and I yield 7 minutes to the gentleman from Texas (Mr. SAM JOHNSON), a valuable member of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this is a terrible amendment. What I am rising for is to support equality for 95 percent of working Americans who pay into Social Security.

Today's debate is about fairness, a need to bring equity to a system under scrutiny. This amendment concerns Texas teachers. This bill concerns equality, fairness and equity.

Texas is home to great students and great schools, thanks in part to great Texas teachers. Educated in Texas schools myself, I put my kids through Texas schools, and my grandkids are attending Texas schools; but there is a lot of misinformation out there about Texas teachers and their retirement plan.

Before I get too far into the details of this issue, I want to explain some of the fundamentals of Social Security. When the Social Security System was created, the workforce was made up largely of men whose wives stayed home. Spousal benefits were created for these women. Social Security spousal benefits are for the nonworking spouse of a worker covered by Social Security. Generally, we think of this as a stay-at-home mom and a working dad. Social Security retirement benefits are for those who work and pay Social Security taxes. Ninety-five percent of working Americans are covered by this program.

The situation is very different today from when Social Security was created in the 1930s. The majority of families today have two earners supporting the family. A primary rule of Social Security is that everyone is able to collect either their own retirement benefit from Social Security or their spousal benefit, whichever is higher. Let me repeat that. It is one or the other, not both.

The Texas teacher retirement system is a substitute for Social Security. A person can participate in one system or the other, but not both. Most school districts in Texas have chosen to stay out of Social Security; yet they have always had the chance to join the system. In fact, fifty school districts in Texas have entered into Social Security, and they can have their own 401(k)-type program also. Again, at any time school districts can leave the Texas teacher retirement system and enter into Social Security, but they cannot do both because the retirement system was a substitute for Social Security.

Back to Social Security. Whether a married couple works in a job such as a nurse and a small business owner, Social Security-covered teacher and an accountant or a lawyer or an engineer, they both pay into Social Security and both are subject to this rule. A husband and wife are each able to collect either their retirement benefits earned through their own hard work or they are able to collect spousal benefits, i.e., 50 percent of retirement, whichever is higher. They cannot collect both.

It is very possible that if one spouse earns significantly less than the other, for example, that nurse and a small business owner, then the nurse is going to have higher spousal benefits than her own retirement. In that case, the nurse will collect the higher spousal benefit but may ask herself why she paid all those Social Security taxes all those years. If a retirement benefit is \$600, for example, for the nurse, and her spouse benefit is \$800, she would collect \$800 but not \$1,400 which is what her husband would have collected.

Again, this is how the system works for 95 percent of all Americans. This bill concerns some teachers in Texas who have questioned the system because they want both Social Security

spouse benefits and their Texas retirement. Again, the Texas teacher retirement system is a substitute for Social Security. A person can do one or the other, but not both.

I want teachers to understand that the government pension offset actually only reduces their spousal benefit by two-thirds of their State retirement benefit rather than dollar for dollar as in the case for other working spouses.

□ 1330

Teachers right now get a better deal and more bang for their buck than 95 percent of the American public. They get one-third more of their spousal benefits than 95 percent of working Americans.

The so-called "loophole" that is being closed here today is one small part of the government pension offset meant to encourage entire school districts to join the Social Security system. If an entire school district, such as the Plano Independent School District, were to decide to enter Social Security and get out of State retirement, then every teacher in that school district would then be subject to all Social Security rules, even for a teacher who only works 1 day.

Roughly 4,800 teachers in Texas have found a way as individuals to leave their regular teaching job covered by State retirement and move, for 1 day, to a school district that does pay Social Security taxes and then retire. An example is a teacher from Plano who is covered by the State retirement system. If she transfers her last day of work from Plano to Ponder, Texas, which does pay Social Security, she is paid roughly \$6 per hour. She might pay a total of \$3 into the Social Security fund, but because of this final day of work in Ponder, paying Social Security taxes, she is able to collect the higher of either her benefit or full spousal.

Of course, because she only paid \$3 in, she would collect the spousal benefits based off her husband's work, plus she collects her Social Security substitute; that is, her Texas teacher retirement money. She can double dip, when 95 percent of the American public cannot. This costs the Social Security System thousands of dollars.

The General Accounting Office has estimated that \$450 million is being paid in benefits under this loophole, and that number could increase tenfold if the loophole is marketed to other people throughout the country.

I am pro-teacher, and in Texas they have a great State retirement system. Mr. Speaker, this is not how Social Security operates for 95 percent of working Americans and we are going to break the Social Security System.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume to say that I realize my colleague from Texas did not have time to yield, but let me just say that these teachers do not make the choice between the teacher retirement systems and Social

Security. The choice is made by the local school districts. That is why 50 school districts in Texas pay into both.

We have more than 1,100 school districts in the State of Texas where those local school board members, not those employees, those local school board members make that decision.

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

Mr. LAMPSON. Mr. Speaker, there are an awful lot of good people who want to leave some kind of employment into which they have been paying Social Security and go into the classroom, and our classrooms across the State of Texas and across this whole country are crying for good people to go into the classroom.

My wife was one of those people who had a job that paid into Social Security for a long period of time. She is going to receive minimal, if anything, from the teacher retirement system. But upon her retirement is it right for her to have been discouraged, after being encouraged to come in, because she is not going to receive some of the benefits she thought she might be able to? That is not right. That is not what we are trying to do here. We want to be able to encourage good qualified people to go into our classrooms.

This legislation is going to have broad implications for teachers in Texas and many other States. It is going to very likely force an exodus, a mass exodus of good experienced teachers from our public schools. 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 potential after this year?

Well, the bill also fails to address a larger issue for public servants in this country. The government pension offset unfairly penalizes teachers and government workers and the employees most likely to pay into a public pension plan. So how can we sit idly by while our public service employees are indeed being penalized for serving their communities?

I think we really should show a different loyalty to our first responders, who we from this floor praise so very often. The government pension offset is a deterrent to public service across this Nation. There is a solution to this problem. We believe that we offered it and it has been turned down.

If we are to attract the best and brightest in public service, such as our teachers, firefighters, and police officers, then we must repeal this unfair provision. I urge a vote for the Green amendment and I urge my colleagues to support the passage of legislation that would permanently repeal the government pension offset. Our public servants deserve our support.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Prior to being elected to Congress, some of us were actually in the profession of teaching. I was, for a number of years, and I paid into the California State Teachers Retirement System. I can tell my colleagues right now that in California, no serious and responsible professional teacher would think that their 20 or 25 years devoted to the classroom should be capped off by scurrying to another school district where there is clear collusion between the districts to allow for 1 day, 1 week, or 1 month of employment so that they can scam the system. Now, that is basically what the Green amendment asks us to continue to allow; fortunately not in California, but unfortunately in Texas and perhaps in Georgia.

Let me get my colleagues to really understand what is going on here. Is there a problem with the offset? Of course there is. We just had a colloquy on the floor with the chairman of the Subcommittee on Social Security and the ranking member of the Subcommittee on Social Security and there was agreement that we will seriously address the pension offset. I have friends of mine who are still in teaching who have implored me to address that. We are in the process of addressing it.

The whole point of the Green amendment is do we allow something to continue which goes something like this: Let us take a teacher in Texas, Mrs. Brown or a Mrs. Green, and say she is employed in Dallas or Houston. And let us say she has worked for a number of years and has successfully put a significant amount of money in the Texas State Teachers Retirement System. She is now ready to retire. She finds another district. And it is true that the local district officials choose whether their employees are in the Social Security System or in the State teachers system. That is a local choice.

But what happens is those board members are in collusion with other districts when they allow a 20-plus year career teacher to work, perhaps in areas not directly to their certificate of teaching credential but simply a job. And let us say they work there for as much as, oh, a month. They may have paid into Social Security, oh, maybe \$100. And according to the Social Security actuaries, that 1 month, after those distinguished years of teaching, could produce as much as \$93,000 of taxpayers' money going to this person who put a blemish on their professional teaching career to play an angle.

The Green amendment says let us allow these folks to continue to play this little game of collusion to raid the Social Security System under the guise that we should take care of these people. If we vote for the Green amendment what we are doing is relieving pressure to address the real problem.

I would urge all my colleagues to understand a "yes" vote on the Green

amendment slows down the addressing of the pension offset. A "no" vote on the Green amendment puts all Americans in the same position, pressuring us to do something about the pension offset. Please, do not remove the pressure by voting "yes" on the Green amendment. Vote "no" on the Green amendment and all Americans will feel the pressure, rather than just a few who distinguish themselves at the end of their teaching career to go clip lawns, sweep up paper, or maybe even latch on to a substitute position to scam the system.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume to comment that having the chairman of the Committee on Ways and Means calling this "scamming the system" is like the pot calling the kettle black. We have provisions in our Tax Code for individuals, one person. We have Tax Code provisions for one company or groups of companies. Yet it is a scam system if we are going to protect public school educators.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS), my colleague from Texas.

Mr. EDWARDS. Mr. Speaker, I rise in support of the Green amendment because I do not believe teachers should be penalized for teaching our children.

Now, my colleague from California came up with a hypothetical example, but let me tell my colleagues what will happen in real life, not hypothetically, if the Green amendment is defeated.

I now am representing Fort Hood in Texas, the only two-division Army installation in America, which has several thousand soldiers arriving in Iraq, and several thousand more per day. We will have up to 30,000 soldiers from Fort Hood, Texas, fighting for our country in Iraq most likely in the next 2 months. Now, those soldiers fighting for us today and in the weeks ahead over there come back to Texas. And the bill that Congress, which I helped pass a decade ago, the Troops to Teacher bill, actually tries to encourage those military retirees, those soldiers fighting for us today in Iraq, to go into teaching. They are doing that all throughout the school system, educating the children of military soldiers in central Texas.

Now, for those who want to defeat the Green amendment, let me just mention what that is really saying. That says that it is okay for these soldiers fighting in Iraq today for our country to pay Social Security taxes, and then when they come back to Texas and retire, they are going to have their Social Security benefits cut because some opposed the Green amendment. I think that is unfair. It is not only unfair to the soldiers to have their Social Security benefits docked because we want to defeat the Green amendment, it is unfair to the children of military families who will not have the benefit of those retired soldiers teaching in our classrooms.

It was bad enough that the administration was trying to cut impact aid to

help military kids' education during a time of war, it was worse yet when the Republican leadership pushed for a \$28 billion cut in veterans benefits during a time of war; but now, to add insult to injury, I hope the teachers of Texas, Mr. Speaker, are listening to my Republican colleagues who, intended or not, would push a policy that will penalize soldiers fighting today in Iraq who want to teach our children tomorrow. That is wrong for our servicemen and women, it is wrong for the children of Texas, and it is wrong for this country.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to comment that I think the gentleman is figuring that all those soldiers are going to come back to Texas. That is nonsense. This has nothing to do with our soldiers.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS), a distinguished member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding to me so that I might inform my friend, the gentleman from Texas (Mr. GREEN), that I am doing everything I can to fix the loopholes in the Tax Code. He is well aware that his party was in the majority for 40 years and they punched an awful lot of holes in that Tax Code. We are trying to plug it up just as rapidly as we can, but it will take a few more years to clean up 40 years of a mess.

Mr. COLLINS. Mr. Speaker, reclaiming my time, I rise in full support of the bill as presented by the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Social Security.

With all the respect I have for the gentleman from Texas (Mr. GREEN) and what is he is attempting to do, I do have to oppose his amendment. I can appreciate what he is doing, what he is intending to do, but this is a very serious loophole that does exist. It has benefitted a number of teachers in Texas, it has benefitted a few from Georgia. There is a difference in how the teachers in each State went about it, but it is unfair to the majority of the population of this country who pay into the Social Security system based on their employment for years and years.

This has nothing to do with the government pension offset. It has nothing to do with the windfall benefit. It is all about spousal benefits, and it is a loophole that needs to be closed. It is one that has existed for some time. The Social Security commissioner has recommended that it be closed, the Government Accounting Office has also recommended it be closed, and as the chairman of the full committee men-

tioned, it can have benefits of upwards of almost \$100,000 for those who may work 1 day or 1 year in the system that is covered by Social Security, having worked the majority of their time in a system that is not.

This has caused a lot of the districts in Georgia, the school districts who do not participate in Social Security, to lose teachers to other districts who do, and it is a loophole that needs to be closed.

□ 1345

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I respect the gentleman from Georgia (Mr. COLLINS) with whom I have gone on trips to see our military, and this issue is also about the military. As the gentleman from Texas (Mr. EDWARDS) who represents Fort Hood pointed out, this will impact them unless we reform the government pension offset.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I rise today in support of the Green substitute for H.R. 743. This substitute amendment contains all of the good elements of H.R. 743, and eliminates one very negative element, section 418, which negatively affects teachers and other public servants in my district of El Paso, Texas. I have heard from countless teachers in my district regarding this bill who will have their Social Security widow's benefit reduced so severely that their financial well-being will be devastated. The Green amendment fixes this.

Mr. Speaker, in addition, 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 offered to our country's top income earners, our teachers and other public servants should not be penalized. These are the very people we should be protecting.

Finally, Mr. Speaker, I want to speak to our veterans. If this issue sounds a lot like their concurrent receipt issue, that is because it is. And it is interesting that it is the Republican leadership that opposes both of these issues. Too bad it is okay to pass billions in tax relief to the wealthy but continue to undermine our working families. I urge my colleagues to show support for our teachers and vote in favor of the Green substitute amendment.

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

Mr. TURNER of Texas. Mr. Speaker, not too many months ago I had a teacher in my office in East Texas in the city of Lufkin, sitting across the desk, crying because she had learned she would not receive any of her husband's Social Security survivor benefit because she had been employed for her entire career as a teacher.

The issue before us is not a discussion on loopholes, it is whether the

government pension offset is fair. Why should teachers, firefighters, law enforcement people, be denied their survivor benefits under Social Security simply because they have a government retirement benefit? The truth of the matter is if the lady sitting across the desk from me had worked for any other private company and had received a retirement benefit from them, she would still be eligible for her husband's survivor benefit.

So I would invite the distinguished chairman of the Committee on Ways and Means, who suggested that the Green amendment slows the pressure to change the government pension offset, to merely join with us in trying to amend this legislation; or, in the alternative, to join with the 172 other Members of this House in cosponsoring legislation, H.R. 594, that eliminates this unfair government pension offset.

We are here today to fight for our Texas teachers, to fight for our Texas firefighters and our Texas law enforcement people who are unfairly disadvantaged by a government pension offset that says to them, because they work for the government and they have a separate retirement program, then they are going to be denied the very Social Security benefit that their spouse worked and earned. We hope that those who are opposing us today will take a second look, join with us and try to correct this unfair provision.

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

Mr. Speaker, I would point out to the gentleman that if somebody is enjoying a private pension in the private sector, they also paid into Social Security, which is something that the teachers that the gentleman is referring to are not doing.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, there is a great deal of misinformation being spoken today. This has nothing to do with our soldiers overseas, because they do not have a loophole; or our firefighters or police officers, because they do not have a loophole. This does have a lot to do with the widows in America who do not have a loophole and are losing \$450 million of their Social Security because one group has a loophole that no one else in America has.

Let us look at the average family in Texas because we have heard a lot of these examples. This is where the husband has made \$1,000 a year as his retirement and the wife's retirement is \$700. When he passes away, what happens? For almost everyone in America where both people work in Social Security, that benefit is \$1,000. For other families that work and have a government pension, like our firefighters and policeman, or Federal workers, for example, who paid into their own private plan, they keep more, \$1,233. They get more than most families in America.

But look at our Texas teacher. Because we have a loophole where they can go to work 1 day in Social Security and contribute \$3 and collect over \$100,000 more, they pull down \$1,700 a month for widow's benefits that no one else in America can achieve. Not other teachers in other States, not the elderly in other States, no one in America. And because of this, this is draining not just \$450 million now, but if we keep this loophole open, we will do more and more damage to everyone else in America who pays into Social Security.

Let me make a final point about this. Everyone's Social Security is offset. Members have what is called a dual-entitlement offset. That is 100 percent. Government workers is less, only 66 percent, two-thirds. Texas teachers, no offset whatsoever, so they receive many more benefits than the next-door neighbor who works hard, than Texas nurses, store clerks, the woman who takes care of our elderly in nursing homes, they do not have a loophole.

We are not going to have an America where there are two classes of citizens, those who have loopholes in Social Security and those who do not. This is about protecting the integrity of our Social Security system for every generation. If we do not close this loophole, we have lost all claim to protecting Social Security for the future.

Mr. GREEN of Texas. Mr. Speaker, I yield such time as she may consume to the gentlewoman from 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, because I support teachers, firefighters, police, and the United States military, I rise in support of this amendment.

Mr. Speaker, the Social Security Protection Act of 2003 was broken last time it came up on the floor. Many public servants in our districts noticed that and called and emailed and faxed us. We in Congress realized indeed it was broken and voted the bill down. But, here it is again—and it still has not been fixed. There is much good in this bill. If the Majority Leadership would take out the small error that will hurt our teachers and firefighters and police, this bill could be in front of the President soon. That would be a great service.

I commend my colleague and neighbor from Houston for his work in addressing the needs of our teachers—who are some of the hardest hit—in Texas. The Green Substitute will preserve all the good in the Social Security Protection Act, that so many of us have worked together in bipartisan fashion, to create. It will simply remove a single offensive provision, that was added in at the eleventh hour, and hits hard a group of people that I can't imagine anyone wanting to hit right now—when we are trying to improve our schools, when we are trying to bolster our first response capabilities, and when economic uncertainty abounds.

The Government Pension Offset (GPO) reduces or eliminates a Social Security widow's

benefit if the widow is eligible for a pension based on a state, local or federal job that was not covered by Social Security. The GPO affects many individuals, but is especially harmful for teachers, police officers, and firefighters, and is particularly burdensome for lower income workers and women. A provision in current law, however, allows some state and local government employees to escape the application of the GPO if they switch jobs at the end of their government careers.

It is sad that we make dedicated employees jump through such hoops to get the benefits they deserve. I would like to totally revisit the GPO, but know that today is not the day to do it. Today, the best we can do is to keep this small loophole open and allow good people to continue to go into public service. I usually appreciate closing loopholes, but this one is too valuable to our schools and first responders.

As it stands, H.R. 743 modifies the last-day-exemption clause by requiring public servants to work an additional five years in order to receive a full spousal benefit. This legislation does nothing to remedy the GPO to make it fairer for public servants. There are many people who are interested in going into public service as a second career, but may not be able to work and then switch employment for five years. These people may not then be able to afford to serve. This is ridiculous at a time when needs are so great in our society.

The Green amendment strips this one, hidden, offensive provision in this otherwise non-controversial bill. I urge my colleagues to support teachers, firefighters, police officers, and other public servants by supporting the Green amendment.

For example, last month I received a call from one woman in my District who was a teacher earlier in 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 as is, it won't be only she that loses. It will be our nation's children who lose—an experienced, intelligent teacher. The Green Substitute will allow her to help leave no child behind.

I will support the Green Substitute to H.R. 743, and urge my colleagues to do the same.

Mr. GREEN of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ORTIZ).

(Mr. ORTIZ asked and was given permission to revise and extend his remarks.)

Mr. ORTIZ. Mr. Speaker, the thing that we are trying to correct here today is we do not have a problem with the 50 school districts that pay Social Security, but we do have a problem with the 1,100 or more school districts where they are not allowed to pay Social Security. This is why the Green

amendment is a good amendment. We are trying to correct a deficiency that exists.

We have a lot of soldiers and sailors who are fighting this war. They do pay Social Security. When they come back and they decide to take up the profession of teaching, they are going to lose their benefits. This is a true fact. This is what we are trying to correct.

The teachers across the State of Texas are mostly women, and they are not wealthy people. If I had worked so many years and my spouse dies, I should be qualified to receive what my husband has paid into.

Mr. GREEN of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, today the House stands to make a choice. We must choose to support our widowed teachers and public employees, or we choose to oppose them. The choice is ours. I am appalled that our friends on the other side of the aisle would take a stand against our teachers and claim that the teachers are receiving full spousal benefits and are engaged in a gimmick or a trick or a fraud. Obtaining spousal benefits is not a trick or a fraud. It is a payment for an entire lifetime of work by a spouse. It is a payment for an entire lifetime of a man and woman working together.

Saying that teachers receive Social Security for working 1 day of work is simply not true, and our friends on the other side of the aisle know it and it is embarrassing for them to say that. The real fraud in this is that the Democrats on the Committee on Ways and Means offered to fix this section by using the language of the Republicans if they would address the GPO. The Republicans said no. Clearly the Green amendment points out the total absurdity of the GPO. It is quite simple.

Here is the way, the Republican plan. If someone works for an insurance company, no offset. If someone works for a pharmaceutical company, no offset. If someone works for an HMO, no offset. But if that person is a teacher, there is an offset and their spouse's lifetime of work is absolutely meaningless. At least our friends on the other side of the aisle are consistent. They believe that neither the veterans nor the teachers should receive the benefits that they have earned from a lifetime of work. We saw that yesterday and we are seeing that today. Teachers work hard, they follow the rules. They are being rewarded for a lifetime of work with their spouse.

We should not be involved in changing the rules of the game in the middle of the game. Let us stand up for our teachers. Our teachers should be rewarded. Our teachers should not be punished. Let us support the Green amendment and do what we ought to do in this House.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, I would say to the gentleman from Texas (Mr. TURNER), that tearful constituent of his is probably not scheming to game the system.

I would say to the gentleman from Texas (Mr. EDWARDS), I think it is a bit disingenuous to invoke our troops and our firefighters.

I would say to the gentleman from Texas (Mr. GREEN) who offers the amendment, the amendment would strip section 418 out of the underlying bill.

And I would again say to the gentleman from Texas (Mr. SANDLIN) who just spoke, would the following hypothetical be considered a gimmick, trick or fraud: A university professor who works his entire life as a university professor, works a single day as a janitor making \$6 an hour, an 8-hour day, \$48, and out of that paycheck, there is a \$3 FICA withholding, is it a gimmick, a trick or a fraud for that \$3 FICA withholding to then translate into roughly \$100,000; \$5,000 a year for 20 years of retirement?

Unfortunately, Mr. Speaker, that is not a gimmick, trick, or fraud. It is not even a hypothetical. It is a real-life example of something that has occurred that needs to be changed. A real janitor would not see that \$100,000.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say they are not receiving the benefits because of that 1 day, they are receiving them because they were married for at least 10 years to someone who paid into Social Security. That is the reason that they are receiving it. It is not hypothetical. We have people who have paid into Social Security for 40 years, and their spouses have received nothing. That is wrong.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, my Republican colleagues may not like the truth, but they cannot run from it. The truth is that by defeating the Green amendment, what they are saying to some of the thousands of soldiers from my district in the Iraqi theater today, that if they come back home to Texas and take advantage of the Troops to Teachers program passed by Congress to encourage them to become teachers, then their Social Security benefits are going to be reduced or eliminated. That is wrong. It is unfair. It discourages good people from going into the teaching profession. And I can tell Members, the school districts in my district value highly having these retired Army soldiers teaching in the classrooms. The other side may not like the facts, but they are going to have to accept them.

□ 1400

Mr. SHAW. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, others may not like the facts either.

My younger brother has been deployed as an Army medic in the 67th Brigade. He will be watching out for the 4th Infantry Division in the Persian Gulf, his second tour of duty. He does not have a loophole. He cannot work 1 day and collect \$100,000. Yes, he has an offset like the rest of America has an offset. When we hear this said no one else has an offset, it is absolutely untrue. What we are trying to defend here is some of America that has a loophole and all the rest of us, firefighters, widows, the elderly have no loophole. We are protecting the security of Social Security.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

To my really good friend and neighbor, that is the whole point of the debate. We should reform the government pension offset and not punish those who have found a way to deal with it.

Mr. Speaker, I yield 1 minute to the gentlewoman from Dallas, Texas (Ms. EDDIE BERNICE JOHNSON).

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of the Green amendment. It is interesting as we sit here and listen to each other that the teaching profession is probably one of the most important professions there is. Not a single person here has gotten here without having some teachers. We do not pay them very much. It is one of the low-paying professions. And yet we do not want them to receive their spouses' Social Security. My Social Security is going to be offset with a pension. I am willing to allow that to go for making sure that the teachers after a long career of teaching can have a retirement, scraping together the pennies so they can live without going on a system that is no longer called welfare because we do not have it.

Mr. SHAW. Mr. Speaker, I reserve the balance of my time to close.

Mr. GREEN of Texas. Mr. Speaker, I think I have the right to close, and I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Florida has the right to close.

The gentleman from Texas has 2½ minutes remaining, and the gentleman from Florida has 2 minutes remaining.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

The reason I am offering this amendment is because the underlying bill provides for this section 418. There are a lot of good provisions in the underlying bill, and people can vote for my amendment and still vote for the bill. There are other States with public employees like Texas. It just impacts Texas more than I guess other States, maybe Georgia or somewhere else, that reduces our spousal benefits because we have local governments that do not participate in Social Security. Only 50 of our school districts, the gentleman

from Texas (Mr. SAM JOHNSON), participate; but we have over 1,100 school districts, and that is a local decision. My wife as a teacher did not decide she would go to work for someone who paid Social Security. She went to work because she wanted to be a teacher, and that is the frustration because no one thinks about it until they realize later in their careers, wait a minute, I have been married for all these years and I am going to get penalized if my husband passes away?

Marriage is a contract. It is also a contract that says they have worked together for all those years and yet if they happen to be a public school teacher, tough luck for that marriage contract. They do not benefit. They get punished because they worked as a teacher and they did not pay into Social Security, but their spouse did, their husband did. Again, we are talking about 80 percent of the public schoolteachers in Texas and I am sure nation-wide, and I am sure this is a nation-wide problem. It is just that Texas has found a way around it, and yet you are going to punish Texas, and yet Georgia and other States have the same problem. Almost all these people are eligible for Medicare through their husbands, but none of them are eligible for their spousal benefit because of the government pension offset. The GPO is wrong, and I would not be here today if we had a bill come out to deal with the GPO on a fair basis, the government pension offset; but we are not.

I do not want to keep this loophole. I want it to treat fairly all the government employees who are being treated badly, but it affects teachers because they are the most in population. It affects firefighters and police officers also; but after a lifetime of being underpaid and they depend on their husband's Social Security or widow's benefits if they pass away and yet we take it away, and it is just frustrating to see that happen and to punish people. Yes, in Texas we found a way to deal with this wrong and you are punishing teachers because we have dealt with it instead of dealing with it in Congress, and that is what is wrong.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, people watching this debate may have noticed that the only speakers in favor of the gentleman from Texas's amendment are Members from the State of Texas. We have seen even Jessica Lynch, an American hero who has just been freed as a prisoner of war, brought into this debate. Jessica is going back to West Virginia to teach, and she is not going to get this loophole. We need to wipe it out. It is unfair, and it is gaming the system.

We have heard about people in the private sector, employees of HMOs, employees of automobile companies and all, they do not have the pension offset. They do not have it because they paid into Social Security. Why should they have an offset if they have paid into Social Security?

We have heard about the soldiers coming home. What type of a desperate argument is this? This has nothing to do with the soldiers anymore than someone right now who is struggling to get through college to go to teach themselves. Ladies and gentlemen, I will tell it to the 48 other States other than Texas and Georgia that you would be giving public employees in two States an advantage that they do not receive in the rest of the country. You will be giving to these teachers and these firefighters something that their teachers and their firefighters will not have. This is basically unfair. We are going to correct it.

We have heard about the pension offset. All of us have been talked about that. Our Federal employees, our retired Federal employees, they have all been into our office talking about the pension offset. That is going to cost us \$9 billion if we are able to do something with it, and I would like to address that; and Mr. MATSUI and I have agreed to have hearings on it, and we are going to look to ways in order to try to do that, but that has nothing to do with this vote, absolutely nothing to do with it. This has only to do with a handful of public employees who are gaming the system in the State of Texas and even a smaller number in the State of Georgia. Vote "no" on the Green amendment. Vote "yes" on the bill. It is a good bill, and it is time that we clean this up.

The SPEAKER pro tempore. Pursuant to House Resolution 168, the previous question is ordered on the bill, as amended, and on the further amendment by the gentleman from Texas (Mr. GREEN).

The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. GREEN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GREEN of Texas. 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. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 196, nays 228, not voting 10, as follows:

[Roll No. 100]
YEAS—196

Ackerman	Bonilla	Case
Alexander	Boswell	Clay
Allen	Boucher	Clyburn
Andrews	Boyd	Conyers
Baca	Brady (PA)	Costello
Baldwin	Brown (OH)	Crowley
Ballance	Brown, Corrine	Cummings
Becerra	Burgess	Davis (AL)
Bell	Burns	Davis (CA)
Berkley	Capps	Davis (FL)
Berman	Capuano	Davis (IL)
Berry	Cardin	DeFazio
Bilirakis	Cardoza	DeGette
Bishop (GA)	Carson (IN)	Delahunt
Bishop (NY)	Carson (OK)	DeLauro
Blumenauer	Carter	Deutsch

Dingell	Langevin	Rangel
Doggett	Lantos	Reyes
Edwards	Larsen (WA)	Rodriguez
Emanuel	Larson (CT)	Ross
Engel	Lee	Rothman
Eshoo	Levin	Roybal-Allard
Etheridge	Lewis (GA)	Ruppersberger
Evans	Lofgren	Rush
Farr	Lowey	Ryan (OH)
Fattah	Lucas (KY)	Sanchez, Linda T.
Filner	Lynch	Sanchez, Loretta
Ford	Majette	Sanders
Frank (MA)	Maloney	Sandlin
Frost	Markey	Schakowsky
Gillmor	Marshall	Schiff
Gonzalez	Matheson	Scott (GA)
Gordon	Matsui	Scott (VA)
Granger	McCarthy (NY)	Serrano
Green (TX)	McCollum	Sherman
Grijalva	McDermott	Skelton
Gutierrez	McGovern	Slaughter
Hall	McIntyre	Solis
Harman	McNulty	Spratt
Hastings (FL)	Meehan	Stark
Hefley	Meek (FL)	Stenholm
Hill	Meeks (NY)	Strickland
Hinchey	Menendez	Stupak
Hinojosa	Michaud	Tanner
Hoeffel	Millender-McDonald	Tauscher
Holt	Miller (NC)	Thompson (CA)
Honda	Miller, George	Thompson (MS)
Hooley (OR)	Mollohan	Tierney
Hoyer	Moore	Towns
Inslee	Moran (VA)	Turner (TX)
Israel	Nadler	Udall (CO)
Jackson (IL)	Napolitano	Udall (NM)
Jackson-Lee (TX)	Neal (MA)	Van Hollen
Jefferson	Oberstar	Velazquez
John	Olver	Visclosky
Johnson (IL)	Ortiz	Waters
Johnson, E. B.	Owens	Watson
Jones (OH)	Pallone	Watt
Kaptur	Pascrell	Waxman
Kennedy (RI)	Pastor	Weiner
Kildee	Paul	Wexler
Kilpatrick	Payne	Woolsey
Kind	Pelosi	Wu
Klecza	Peterson (MN)	Wynn
Kucinich	Price (NC)	
Lampson	Rahall	

NAYS—228

Abercrombie	Culberson	Hayworth
Aderholt	Cunningham	Hensarling
Akin	Davis, Jo Ann	Herger
Bachus	Davis, Tom	Hobson
Baird	Deal (GA)	Hoekstra
Baker	DeLay	Holden
Ballenger	DeMint	Hostettler
Bartlett (MD)	Diaz-Balart, L.	Houghton
Barton (TX)	Diaz-Balart, M.	Hulshof
Bass	Dicks	Hunter
Beauprez	Dooley (CA)	Isakson
Bereuter	Doolittle	Issa
Biggert	Doyle	Istook
Bishop (UT)	Dreier	Janklow
Blackburn	Duncan	Jenkins
Blunt	Dunn	Johnson (CT)
Boehrlert	Ehlers	Johnson, Sam
Boehner	Emerson	Jones (NC)
Bonner	English	Kanjorski
Bono	Everett	Keller
Boozman	Feeney	Kelly
Bradley (NH)	Ferguson	Kennedy (MN)
Brady (TX)	Flake	King (IA)
Brown (SC)	Fletcher	King (NY)
Brown-Waite,	Foley	Kingston
Ginny	Forbes	Kirk
Burr	Fossella	Kline
Burton (IN)	Franks (AZ)	Knollenberg
Buyer	Frelinghuysen	Kolbe
Calvert	Gallegly	LaHood
Camp	Garrett (NJ)	Latham
Cannon	Gerlach	LaTourrette
Cantor	Gibbons	Leach
Capito	Gilchrest	Lewis (CA)
Castle	Gingrey	Lewis (KY)
Chabot	Goode	Linder
Choccola	Goodlatte	Lipinski
Coble	Goss	LoBiondo
Cole	Graves	Lucas (OK)
Collins	Green (WI)	Manzullo
Cooper	Greenwood	McCotter
Cox	Gutknecht	McCrary
Cramer	Harris	McHugh
Crane	Hart	McKeon
Crenshaw	Hastings (WA)	Mica
Cubin	Hayes	Miller (FL)

Miller (MI)	Radanovich	Snyder
Miller, Gary	Ramstad	Stearns
Moran (KS)	Regula	Sullivan
Murphy	Rehberg	Sweeney
Murtha	Renzi	Tancredro
Musgrave	Reynolds	Tauzin
Myrick	Rogers (AL)	Taylor (MS)
Ney	Rogers (KY)	Taylor (NC)
Northup	Rogers (MI)	Terry
Norwood	Rohrabacher	Thomas
Nunes	Ros-Lehtinen	Thornberry
Nussle	Royce	Tiahrt
Obey	Ryan (WI)	Tiberi
Osborne	Ryun (KS)	Toomey
Ose	Sabo	Turner (OH)
Otter	Saxton	Upton
Oxley	Schrock	Vitter
Pearce	Sensenbrenner	Walsh
Pence	Sessions	Wamp
Peterson (PA)	Shadegg	Weldon (FL)
Petri	Shaw	Weldon (PA)
Pickering	Shays	Weller
Pitts	Sherwood	Whitfield
Platts	Shimkus	Wicker
Pombo	Shuster	Wilson (NM)
Pomeroy	Simmons	Wilson (SC)
Porter	Simpson	Wolf
Portman	Smith (MI)	Young (AK)
Pryce (OH)	Smith (NJ)	Young (FL)
Putnam	Smith (TX)	
Quinn	Smith (WA)	

NOT VOTING—10

Barrett (SC)	Hyde	Souder
Combust	McCarthy (MO)	Walden (OR)
Davis (TN)	McInnis	
Gephardt	Nethercutt	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are reminded that there are 2 minutes remaining on this vote.

□ 1428

Ms. GINNY BROWN-WAITE of Florida, and Messrs. SHERWOOD, CRENSHAW, BACHUS, GARY G. MILLER of California, MCHUGH, REYNOLDS, ISTOOK, PORTER, DOOLEY of California and REGULA changed their vote from "yea" to "nay."

Mrs. JONES of Ohio and Mr. HEFLEY changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1430

MOTION TO RECOMMIT OFFERED BY MR. GREEN OF TEXAS

Mr. GREEN of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). Is the gentleman opposed to the bill?

Mr. GREEN of Texas. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GREEN of Texas moves to recommit the bill, H.R. 743, to the Committee on Ways and Means with instructions to report the same back to the House promptly with an amendment addressing the concerns of Federal, State, and local government employees about the government pension offset under title II of the Social Security Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes in support of his motion.

Mr. GREEN of Texas. Mr. Speaker, I know a lot of Members thought that last battle was just because of Texas teachers, firefighters, or police officers; and it is, but simply because Texas has found a way to deal with the government pension offset. Another State, Georgia, has tried and is doing the same thing.

We need to reform the government pension offset. A lot of Members have told me, we are going to vote for you, we are going to vote against you, but we need to reform it. This is what this motion to recommit says, to report back. It instructs the Committee on Ways and Means with instructions to report the same back to the House promptly with an amendment addressing the concerns of Federal, State, and local employees about the government pension offset under title II of the Social Security Act.

During the last 3 or 4 years, there have been bills introduced in this House that have been bipartisan. We have had at times 218 cosponsors of legislation to reform the government pension offset and have not had a hearing.

We have a bill right now, H.R. 594, that has at least 50 Republican cosponsors, and has about 175, and I think it has only been out for a few weeks for cosponsorship, to reform the government pension offset. This is our way to use our rules to be able to say to one of our committees, whether it is my Committee on Energy and Commerce or something else, to say we want to reform the government pension offset. That is why we want to send this bill back. They can reform it and send it back to us. That is what this is about.

If Members want to reform the government pension offset, if they want to take a benefit for not only teachers in Texas but teachers all across the country, Federal employees, military, because the government pension offset affects everyone who is a public employee, then we need to reform it. That is the job of our committee, the Committee on Ways and Means.

I would hope that Members would vote for this motion. That way, we would actually see this vote on the floor of the House that I have not seen until the last few weeks dealing with the government pension offset.

Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, about 200 of us have regularly signed on as cosponsors to the legislation of our colleague, the gentleman from California (Mr. MCKEON), to repeal the Government Pension Offset. In the Committee on Ways and Means, a more modest proposal would simply cut the government pension offset in half. It is authored by the gentleman from Florida (Mr. SHAW) and was joined by a number of Republicans on that committee.

In the committee, we sought not to leave some special provision that Texas teachers have used to protect themselves. We said instead, "solve that problem." We did not use our language to correct the government pension offset; but we took verbatim the language of the gentleman from Florida (Mr. SHAW), his words, joined by four or five Republican members of the Committee.

This motion would permit us to go back and get the correction that all of us have said we want. I do not believe those who suffer from this offset want merely a promise in every pot. They do not want just a committee hearing; they want action. With this motion to recommit, we would get that action and get it promptly for all the firefighters, police officers, and teachers in all the 50 States who deserve to have that done.

Mr. GREEN of Texas. Mr. Speaker, it is frustrating, because a lot of us have heard from our public employees across the country and in our districts. They are frustrated when they find out they get penalized, even though they did pay into Social Security. Or in the case of teachers in Texas who do not have the option because of their local school district decision, they do not even receive their widow's benefits without such a penalty. That is what is frustrating.

We need to reform the government pension offset. That is what the committee should do, and that is what this motion to instruct would do. I urge an "aye" vote.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, the gentleman from California who is interested in dealing with the teachers' issues is named BUCK MCKEON. We have talked about him as a good \$1 bill, the gentleman from California (Mr. MCKEON).

I want Members to know this motion to recommit is a \$3 bill. If Members have never seen a \$3 bill, all Members have to do is look at this motion to recommit. As we all know, there is no such thing as legal tender that is a \$3 bill.

What this motion to recommit does is it kills the bill. I ask the freshmen to listen carefully. If this motion to recommit said "report the same back to the House forthwith," a little word, "forthwith", what the gentleman from Texas (Mr. GREEN) was talking about could possibly occur. But he used the word "promptly" knowingly, because they know that a motion to recommit with the word "promptly" in it kills the bill.

Let me tell the Members what this motion to recommit really does: it says that the Social Security Administration cannot withhold tax refunds of people who cheat other taxpayers. It

says that the Social Security Administration cannot impose monetary penalties on those who mismanage benefits. If says that we cannot create new civil monetary penalties for Social Security fraud.

In other words, if people are for the good stuff that is in the bill, they are against this motion to recommit. The motion to recommit cannot add what they said it does because of the way it is written, it is very simple.

There was not a lot of honest debate on the amendment, and this motion to recommit is not an honest amendment to recommit. It is a motion to kill. Let us vote "no" on this so we can get on to the basic business of passing a very important and helpful bill. Vote "no" on this \$3 bill, the motion to recommit.

PARLIAMENTARY INQUIRY

Mr. GREEN of Texas. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. GREEN of Texas. I do not know about a \$3 bill, but maybe the Committee on Ways and Means could get one printed.

Mr. Speaker, it is my understanding that under our House rules that we are required to use the word "promptly" instead of "forthwith" because we now have had a budget resolution. I would ask, is that correct?

The SPEAKER pro tempore. The Chair cannot anticipate the propriety of another kind of motion.

Mr. GREEN of Texas. I withdraw the parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GREEN of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 203, noes 220, not voting 11, as follows:

[Roll No. 101]

AYES—203

Abercrombie	Boswell	Costello
Ackerman	Boucher	Cramer
Alexander	Boyd	Crowley
Allen	Brady (PA)	Cummings
Andrews	Brown (OH)	Davis (AL)
Baca	Brown, Corrine	Davis (CA)
Baird	Capps	Davis (FL)
Baldwin	Capuano	Davis (IL)
Ballance	Cardin	DeFazio
Becerra	Cardoza	DeGette
Bell	Carson (IN)	Delahunt
Berkley	Carson (OK)	DeLauro
Berman	Case	Deutsch
Berry	Clay	Dicks
Bishop (GA)	Clyburn	Dingell
Bishop (NY)	Conyers	Doggett
Blumenauer	Cooper	Dooley (CA)

Doyle	Lee
Edwards	Levin
Emanuel	Lewis (GA)
Engel	Lipinski
Eshoo	Lofgren
Etheridge	Lowe
Evans	Lucas (KY)
Farr	Lynch
Fattah	Majette
Filner	Maloney
Ford	Markey
Frank (MA)	Marshall
Frost	Matheson
Gonzalez	Matsui
Gordon	McCarthy (NY)
Green (TX)	McCollum
Grijalva	McDermott
Gutierrez	McGovern
Hall	McIntyre
Harman	McNulty
Hastings (FL)	Meehan
Hill	Meek (FL)
Hinche	Meeke (NY)
Hinojosa	Menendez
Hoeffel	Michaud
Holden	Millender
Holt	McDonald
Honda	Miller (NC)
Hooley (OR)	Miller, George
Hoyer	Mollohan
Inlee	Moore
Israel	Moran (VA)
Jackson (IL)	Murtha
Jackson-Lee	Nadler
(TX)	Napolitano
Jefferson	Neal (MA)
John	Oberstar
Johnson, E. B.	Obey
Jones (OH)	Oliver
Kanjorski	Ortiz
Kaptur	Owens
Kennedy (RI)	Pallone
Kildee	Pascrell
Kilpatrick	Pastor
Kind	Payne
Kleczka	Pelosi
Kucinich	Peterson (MN)
Lampson	Pomeroy
Langevin	Price (NC)
Lantos	Rahall
Larsen (WA)	Rangel
Larson (CT)	Reyes

NOES—220

Aderholt	Crane
Akin	Crenshaw
Bachus	Cubin
Baker	Culberson
Ballenger	Cunningham
Barrett (SC)	Davis, Jo Ann
Bartlett (MD)	Davis, Tom
Barton (TX)	Deal (GA)
Bass	DeLay
Beauprez	DeMint
Bereuter	Diaz-Balart, L.
Biggett	Diaz-Balart, M.
Bilirakis	Doolittle
Bishop (UT)	Dreier
Blackburn	Duncan
Blunt	Dunn
Boehlert	Ehlers
Boehner	Emerson
Bonilla	English
Bonner	Everett
Bono	Feeney
Boozman	Ferguson
Bradley (NH)	Flake
Brady (TX)	Fletcher
Brown (SC)	Foley
Brown-Waite,	Forbes
Ginny	Fossella
Burgess	Franks (AZ)
Burns	Frelinghuysen
Burr	Gallely
Burton (IN)	Garrett (NJ)
Buyer	Gerlach
Calvert	Gibbons
Camp	Gilchrest
Cannon	Gillmor
Cantor	Gingrey
Capito	Goode
Carter	Goodlatte
Castle	Goss
Chabot	Granger
Chocola	Graves
Coble	Green (WI)
Cole	Greenwood
Collins	Gutknecht
Cox	Harris

Rodriguez	McKeon
Ross	Mica
Rothman	Miller (FL)
Roybal-Allard	Miller (MI)
Ruppersberger	Miller, Gary
Rush	Moran (KS)
Ryan (OH)	Murphy
Sabo	Musgrave
Sanchez, Linda	Myrick
T.	Ney
Sanchez, Loretta	Northup
Sanders	Norwood
Sandlin	Nunes
Schakowsky	Nussle
Schiff	Osborne
Scott (GA)	Ose
Scott (VA)	Otter
Serrano	Oxley
Sherman	Pearce
Skelton	Pence
Slaughter	Peterson (PA)
Smith (WA)	Petri
Snyder	Pickering
Solis	Platts
Spratt	Pombo
Stark	Porter
Stenholm	Portman
Strickland	Pryce (OH)
Stupak	Putnam
Tanner	
Tauscher	
Taylor (MS)	
Thompson (CA)	
Thompson (MS)	
Tierney	
Towns	
Turner (TX)	
Udall (CO)	
Udall (NM)	
Van Hollen	
Velazquez	
Pascrell	
Waters	
Watson	
Watt	
Waxman	
Weiner	
Wexler	
Woolsey	
Wu	
Wynn	

Quinn	Smith (TX)
Radanovich	Stearns
Ramstad	Sullivan
Regula	Sweeney
Rehberg	Tancredo
Renzi	Tauzin
Reynolds	Taylor (NC)
Rogers (AL)	Terry
Rogers (KY)	Thomas
Rogers (MI)	Thornberry
Rohrabacher	Tiahrt
Ros-Lehtinen	Tiberi
Royce	Toomey
Ryan (WI)	Turner (OH)
Ryun (KS)	Upton
Saxton	Vitter
Schrock	Walsh
Sensenbrenner	Wamp
Sessions	Weldon (FL)
Shadegg	Weldon (PA)
Shaw	Weller
Shays	Whitfield
Sherwood	Wicker
Shimkus	Wilson (NM)
Shuster	Wilson (SC)
Simmons	Wolf
Simpson	Young (AK)
Smith (MI)	Young (FL)
Smith (NJ)	

NOT VOTING—11

Combest	McCarthy (MO)	Pitts
Davis (TN)	McInnis	Souder
Gephardt	Nethercutt	Walden (OR)
Hyde	Paul	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that approximately 2 minutes remain in this vote.

□ 1454

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 396, noes 28, not voting 10, as follows:

[Roll No. 102]

AYES—396

Abercrombie	Bishop (NY)	Calvert
Ackerman	Bishop (UT)	Camp
Aderholt	Blackburn	Cannon
Akin	Blumenauer	Cantor
Alexander	Blunt	Capito
Allen	Boehlert	Capps
Andrews	Boehner	Capuano
Baca	Bonilla	Cardin
Bachus	Bonner	Cardoza
Baird	Bono	Carson (IN)
Baker	Boozman	Carson (OK)
Baldwin	Boswell	Case
Ballance	Boucher	Castle
Ballenger	Boyd	Chabot
Barrett (SC)	Bradley (NH)	Chocola
Bartlett (MD)	Brady (PA)	Clay
Barton (TX)	Brady (TX)	Clyburn
Bass	Brown (OH)	Coble
Beauprez	Brown (SC)	Cole
Becerra	Brown, Corrine	Collins
Bereuter	Brown-Waite,	Cooper
Berkley	Ginny	Costello
Berman	Burgess	Cox
Berry	Burns	Cramer
Biggert	Burr	Crane
Bilirakis	Burton (IN)	Crenshaw
Bishop (GA)	Buyer	Crowley

Cubin Johnson (CT)
 Culberson Johnson (IL)
 Cummings Johnson, Sam
 Cunningham Jones (NC)
 Davis (AL) Jones (OH)
 Davis (CA) Kanjorski
 Davis (FL) Kaptur
 Davis, Tom Keller
 Deal (GA) Kelly
 DeFazio Kennedy (MN)
 DeGette Kennedy (RI)
 Delahunt Kildee
 DeLauro Kilpatrick
 DeLay Kind
 DeMint King (IA)
 Deutsch King (NY)
 Diaz-Balart, L. Kingston
 Diaz-Balart, M. Kirk
 Dicks Kleczka
 Dingell Kline
 Dooley (CA) Knollenberg
 Doolittle Kolbe
 Doyle Kucinich
 Dreier LaHood
 Duncan Langevin
 Dunn Lantos
 Ehlers Larsen (WA)
 Emanuel Larson (CT)
 Emerson Latham
 Engel LaTourrette
 English Leach
 Eshoo Lee
 Etheridge Levin
 Evans Lewis (CA)
 Everett Lewis (KY)
 Farr Linder
 Fattah Lipinski
 Feeney LoBiondo
 Ferguson Lofgren
 Filner Lowey
 Flake Lucas (KY)
 Fletcher Lucas (OK)
 Foley Lynch
 Forbes Majette
 Ford Maloney
 Fossella Manzullo
 Frank (MA) Markey
 Franks (AZ) Marshall
 Frelinghuysen Matheson
 Gallegly Matsui
 Garrett (NJ) McCarthy (NY)
 Gerlach McCollum
 Gibbons McCotter
 Gilchrest McCrery
 Gillmor McDermott
 Gingrey McGovern
 Goode McHugh
 Goodlatte McIntyre
 Gordon McKeon
 Goss McNulty
 Graves Meehan
 Green (WI) Meek (FL)
 Greenwood Meeks (NY)
 Grijalva Menendez
 Gutierrez Mica
 Gutknecht Millender
 Harman McDonald
 Harris Miller (FL)
 Hart Miller (MI)
 Hastings (FL) Miller (NC)
 Hastings (WA) Miller, Gary
 Hayes Miller, George
 Hayworth Mollohan
 Hefley Moore
 Hensarling Moran (KS)
 Hergert Moran (VA)
 Hill Murphy
 Hinchey Murtha
 Hobson Musgrave
 Hoeffel Myrick
 Hoekstra Nadler
 Holden Napolitano
 Holt Neal (MA)
 Honda Ney
 Hooley (OR) Northrup
 Hostettler Norwood
 Houghton Nunes
 Hoyer Nussle
 Hulshof Oberstar
 Hunter Obey
 Inslee Olver
 Isakson Osborne
 Israel Ose
 Issa Otter
 Istook Owens
 Janklow Oxley
 Jefferson Pallone
 Jenkins Pascrell
 John Pastor

Payne
 Pearce
 Pelosi
 Pence
 Peterson (MN)
 Peterson (PA)
 Petri
 Pickering
 Pitts
 Platts
 Pomo
 Pomeroy
 Porter
 Portman
 Price (NC)
 Pryce (OH)
 Putnam
 Quinn
 Radanovich
 Rahall
 Ramstad
 Rangel
 Regula
 Rehberg
 Renzi
 Reynolds
 Rogers (AL)
 Rogers (KY)
 Rogers (MI)
 Rohrabacher
 Ros-Lehtinen
 Ross
 Rothman
 Roybal-Allard
 Royce
 Ruppertsberger
 Ryan (OH)
 Ryan (WI)
 Ryun (KS)
 Sabo
 Sanchez, Linda
 T.
 Sanchez, Loretta
 Sanders
 Saxton
 Schiff
 Schrock
 Scott (GA)
 Scott (VA)
 Sensenbrenner
 Serrano
 Sessions
 Shadegg
 Shaw
 Shays
 Sherman
 Sherwood
 Shimkus
 Shuster
 Simmons
 Simpson
 Skelton
 Slaughter
 Smith (MI)
 Smith (NJ)
 Smith (TX)
 Smith (WA)
 Snyder
 Solis
 Souder
 Spratt
 Stark
 Stearns
 Strickland
 Stupak
 Sullivan
 Sweeney
 Tancredo
 Tanner
 Tauscher
 Tauzin
 Taylor (MS)
 Taylor (NC)
 Terry
 Thomas
 Thompson (CA)
 Thompson (MS)
 Thornberry
 Tiahrt
 Tiberi
 Toomey
 Towns
 Turner (OH)
 Udall (CO)
 Udall (NM)
 Upton
 Van Hollen
 Velazquez
 Visclosky

Vitter
 Walsh
 Wamp
 Weller
 Waters
 Watt
 Waxman
 Weiner
 Weldon (FL)
 Weldon (PA)
 Weller
 Wexler
 Whitfield
 Wicker
 Wilson (NM)
 Wilson (SC)
 Wolf
 Woolsey
 Wu
 Wynn
 Young (AK)
 Young (FL)

□ 1727

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HENSARLING) at 5 o'clock and 27 minutes p.m.

REPORT ON H.R. 1559, EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT FOR FISCAL YEAR 2003

Mr. YOUNG of Florida, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108-55) on the bill (H.R. 1559) making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

NOT VOTING—10

Combest Hyde
 Davis (TN) McCarthy (MO)
 Davis, Jo Ann McInnis
 Gephardt Nethercutt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
 The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1501

So the bill was passed.
 The result of the vote was announced as above recorded.
 A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 857

Mr. SWEENEY. Mr. Speaker, I ask unanimous consent that the gentleman from Washington (Mr. SMITH) be removed as a cosponsor of H.R. 857.
 The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?
 There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 660 AND H.R. 1014

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 660 and H.R. 1014.
 The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?
 There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. RES. 59

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H. Res. 59.
 The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?
 There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.
 Accordingly (at 3 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

HONORING PRIME MINISTER TONY BLAIR WITH CONGRESSIONAL GOLD MEDAL

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to tell my colleagues about a bill I introduced 2 days ago. It is H.R. 1511. The purpose is to honor British Prime Minister Tony Blair with a Congressional Gold Medal.

Mr. Blair is a true ally and friend to this country and has shown incredible leadership, resolve, and solidarity with the United States in recent months. I thank him for his friendship, and I want to honor his commitment and contribution to this country by bestowing him with this honor.

The Congressional Gold Medal is the highest expression of national appreciation for distinguished achievement and contributions to the United States that Congress can offer to any individual. The Congressional Gold Medal of Honor was originally created by this body in 1776 to recognize military leaders, and the first recipient was George Washington.

Since that time, the award has evolved to include world leaders and humanitarians as well. Great Britain has long been one of America's closest friends and staunchest allies. I thank the Prime Minister and Great Britain for the loyalty, resolve, and support they have shown throughout this most recent conflict. I ask my colleagues to join me in supporting this resolution to pay tribute to a great man and a great leader.