

SOCIAL SECURITY ONLINE TOOLS INNOVATION ACT OF  
2018

SEPTEMBER 10, 2018.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means,  
submitted the following

R E P O R T

[To accompany H.R. 3309]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3309) to require the Commissioner of Social Security to make publicly available online tools to allow individuals eligible for disability benefits to assess the impact of earnings on the individual's eligibility for, and amount of, benefits received through Federal and State benefit programs, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Social Security Online Tools Innovation Act of 2018”.

**SEC. 2. ONLINE BENEFIT ASSESSMENT TOOLS.**

(a) **IN GENERAL.**—Not later than 2 years after the date of the enactment of this Act, the Commissioner of Social Security shall make available on the website of the Social Security Administration a tool or tools to allow an individual entitled to benefits under section 223 of the Social Security Act to obtain an estimate of the potential impact of earnings on the individual’s eligibility for and amount of such benefits.

(b) **NO RECOVERY OF CERTAIN OVERPAYMENTS.**—In any case in which a beneficiary to whom an overpayment is made under section 223 of the Social Security Act shows to the satisfaction of the Commissioner that such overpayment arose as a result of the beneficiary’s reliance on inaccurate information provided by the tool or tools described in subsection (a), the beneficiary shall be considered to meet the criteria in section 204(b)(1) of such Act and there shall be no adjustment of payments to, or recovery by the United States from, the beneficiary with respect to such overpayment.

## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H.R. 3309, as reported by the Committee on Ways and Means on July 18, 2018, would require the Commissioner of Social Security to make available on the website of the Social Security Administration a tool or tools to allow an individual entitled to benefits based on disability under title II of the Social Security Act to obtain an estimate of the potential impact of earnings on the individual’s eligibility for and amount of such benefits. The bill seeks to make it easier for Disability Insurance (DI) beneficiaries to understand how potential earnings may affect their benefit payments.

### B. BACKGROUND AND NEED FOR LEGISLATION

Many DI beneficiaries are unable to return to self-supporting work after qualifying for benefits. Among a cohort of beneficiaries tracked for 10 years, 28 percent worked at some point after their application was approved, but generally episodically and at low earnings. About 3.7 percent were able to work enough to leave the rolls. Younger beneficiaries (under 40) were more likely to work than older beneficiaries.<sup>1</sup> However, according to a 2015 beneficiary survey, over 40 percent of beneficiaries said that they were interested in working.<sup>2</sup>

Social Security includes numerous incentives for disability beneficiaries who want to try returning to work. These work incentives are intended to assist in the transition to work and potentially leaving benefits, by allowing individuals to test their capacity to

<sup>1</sup>Su Liu and David C. Stapleton, “Longitudinal Statistics on Work Activity and Use of Employment Supports for New Social Security Disability Insurance Beneficiaries,” *Social Security Bulletin* Vol. 71, No. 3, SOCIAL SECURITY ADMINISTRATION (2011).

<sup>2</sup>*National Beneficiary Survey: Disability Statistics, 2015*, SOCIAL SECURITY ADMINISTRATION, (March 2018).

sustain work without facing the risk of losing all income should they be unsuccessful. However, these work incentive rules are complex, can be confusing to beneficiaries, and often require the assistance of an expert to understand. Moreover, the complexity of the rules, and the prospect of a potential overpayment of benefits, can dissuade some individuals from trying.

SSA must receive reports of a beneficiary's earnings timely, and adjust benefit-payment amounts promptly, in order to prevent overpayment of benefits. Public Law 114–74, the *Bipartisan Budget Act of 2015* (BBA '15) included provisions to address some of the challenges that DI beneficiaries face when trying to return to work by making it easier for DI beneficiaries to report work earnings, by improving the timeliness and accuracy of the earnings information the Social Security Administration (SSA) receives, and by streamlining some of the rules to improve their administration. Section 824 of BBA '15 authorizes the SSA to enter into data exchange agreements with payroll providers to increase the efficiency of earnings reporting and prevent overpayments. Section 825 of the BBA '15 streamlines the SSA's assessment of the impact of earnings on an individual's benefits by requiring the SSA to generally count earnings in the month the earnings are paid (rather than when they are earned). Section 826 requires the SSA to make it easier for DI beneficiaries to report their earnings by creating an electronic earnings reporting system.

Online support tools for people with disabilities who are looking to enter or re-enter the workforce have been developed for several states. For example, the World Institute on Disability, in conjunction with state partners, developed one of these tools. Known as Disability Benefits 101, the tool is available in nine states.<sup>3</sup> During a Committee hearing on DI and work, a return to work expert discussed the value these tools provide.<sup>4</sup>

H.R. 3309 builds on BBA '15 by requiring the SSA to develop a single resource where individuals can assess how their earnings might affect their DI benefits. Creating an online tool (or tools) will expand access to online tools that are already used successfully in some states, can provide beneficiaries with concrete factual information about employment and benefits, and can provide information before, during, and after engagement with a benefit counselor and other experts.

### C. LEGISLATIVE HISTORY

#### *Background*

H.R. 3309 was introduced on July 19, 2017, as the “Social Security Online Tools Innovation Act,” and was referred to the Committee on Ways and Means.

#### *Committee hearings*

On February 25, 2015, the Social Security Subcommittee held a hearing entitled “Maintaining the Disability Insurance Trust

<sup>3</sup>Alaska, Arizona, California, Kentucky, Michigan, Minnesota, Missouri, New Jersey, and Ohio.

<sup>4</sup>John Kregel response to a question from Chairman Johnson at a full Committee hearing: “Promoting Opportunity for Disability Insurance Beneficiaries,” WAYS AND MEANS COMMITTEE, (July 9, 2015), <https://waysandmeans.house.gov/event/chairman-ryan-announces-hearing-on-promoting-opportunity-for-disability-insurance-beneficiaries/>.

Fund’s Solvency.” At that hearing, Subcommittee Chairman Sam Johnson (R–TX) outlined a set of principles for reforming the DI program that included promoting opportunity for DI beneficiaries trying to return to work.

On June 16, 2015, the Social Security Subcommittee held a hearing entitled “Financial Risk of Returning to Work.” The hearing focused on the SSA’s failure to promptly adjust benefit payments when individuals return to work, leading to substantial overpayments, and how fear of overpayments discourages DI beneficiaries from going back to work. The hearing highlighted the effects of earnings on benefits and the need for improvements to wage reporting and their processing by the SSA.

On July 9, 2015, the Committee on Ways and Means held a hearing entitled “Promoting Opportunity for Disability Insurance Beneficiaries.” The hearing focused on the disincentives in the DI program and ways to improve the DI program to better promote opportunity for those beneficiaries who want to work.

*Committee action*

The Committee on Ways and Means marked up H.R. 3309, the “Social Security Online Tools Innovation Act of 2018,” on July 18, 2018, and ordered the bill, as amended, favorably reported (with a quorum being present).

**II. EXPLANATION OF THE BILL**

**A. SHORT TITLE (SECTION 1 OF BILL)**

PRESENT LAW

No provision.

REASONS FOR CHANGE

The Committee believes that the short title reflects the policy and intent included in the legislation.

EXPLANATION OF PROVISIONS

This section contains the short title of the bill, the “Social Security Online Tools Innovation Act of 2018.”

EFFECTIVE DATE

The provision is effective upon the date of enactment.

**B. ONLINE BENEFIT ASSESSMENT TOOLS (SEC. 2 OF BILL)**

PRESENT LAW

No provision.

REASONS FOR CHANGE

DI beneficiaries who want to try working face complex rules regarding the impact of earnings on their benefits (i.e. the work incentives). Fear of losing benefits, and misunderstanding regarding the impact work has on benefits, are frequently cited as barriers to returning to work. While some online tools exist that can help certain DI beneficiaries see the impact of earnings on their bene-

fits, the SSA does not provide such a resource. The Committee believes that all DI beneficiaries should have access to an online tool (or tools) to obtain a preliminary estimate of the potential impact of earnings on the individual's eligibility for and amount of DI benefits so they can make informed decisions about returning to work.

#### EXPLANATION OF PROVISIONS

This section requires the Commissioner of Social Security to make available on the Social Security Administration's website a tool or tools to allow an individual entitled to benefits based on disability under Section 223 of the Social Security Act to obtain an estimate of the potential impact of earnings on the individual's eligibility for and amount of such benefits. The Commissioner must make the tool (or tools) available within two years of the date of enactment.

The Committee expects the SSA will use estimates of wages provided by the beneficiary, and therefore the tool (or tools) will only be as useful as the information is accurate. The estimates the SSA provides should be accompanied by explanations of work incentive provisions, including, but not be limited to, unsuccessful work attempt (20 CFR 404.1574(c) and (d)), trial work months (Section 222(c) of the Social Security Act and 20 CFR 404.1592), impairment-related work expenses (Section 223(d)(4)(A) of the Social Security Act and 20 CFR 404.1576), subsidies (20 CFR 404.1573), extended period of eligibility (Section 223(a)(1)(E) and Section 223(e) of the Social Security Act and 20 CFR 404.1592(a)), extended Medicare eligibility (Section 226(b) of the Social Security Act), and expedited reinstatement (Section 223(i) of the Social Security Act and 20 CFR 404.1592(b)).

The Committee expects the website will note that the information provided by the tool (or tools) is only a preliminary estimate and does not reflect the potential impact on other federal or state benefits which the individual may receive. The Committee recognizes that a precise computation of benefit amounts is complicated given the number and complexity of work incentive provisions. The Committee also recognizes that the tool (or tools) does (do) not replace in-person assistance from the SSA or other trained benefit counselors (such as at Work Incentives Planning and Assistance programs and Employment Networks). Instead, the tool (or tools) complements (complement) this assistance and can serve as a resource in cases where an individual cannot access in-person benefit counseling.

Under Section 204(b)(1) of the Social Security Act, a beneficiary is not liable for an overpayment if the beneficiary can show to the Commissioner's satisfaction that the beneficiary relied on inaccurate information provided by the SSA. The Committee expects that the SSA would conclude that this section of the Act applies to situations where a beneficiary relies on incorrect information provided by the online tool or tools. The Committee also recognizes that the accuracy of the tool (or tools) depends on the accuracy of the information the beneficiary provides. To ensure that beneficiaries are held harmless in cases where the beneficiary provides accurate information, but the tool(s) provide(s) incorrect information, the section explicitly states that beneficiaries will be considered to meet the criteria in Section 204(b)(1), and thus this protec-

tion extends to cases where the online tool (or tools) is (are) used. In line with the Committee's intent that this language does not change current law, the Congressional Budget Office has concluded that this section of the bill would not have a budgetary effect because the SSA already waives overpayments in similar situations.<sup>5</sup>

EFFECTIVE DATE

The provision is effective upon the date of enactment.

**III. VOTES OF THE COMMITTEE**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 3309, the *Social Security Online Tools Innovation Act of 2018*, on July 18, 2018.

The bill, H.R. 3309, as amended, was ordered favorably reported to the House of Representatives by a voice vote (with a quorum being present).

**IV. BUDGET EFFECTS OF THE BILL**

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 3309, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 25, 2018.*

Hon. KEVIN BRADY,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3309, the Social Security Online Tools Innovation Act of 2018.

<sup>5</sup>H.R. 3309, Social Security Online Tools Innovation Act of 2018, CONGRESSIONAL BUDGET OFFICE, (July 25, 2018), <https://www.cbo.gov/system/files?file=2018-07/hr3309.pdf>.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Latus.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 3309—Social Security Online Tools Innovation Act of 2018*

Within two years of enactment, H.R. 3309 would require the Social Security Administration (SSA) to develop and post a tool on its website that allows beneficiaries of the Social Security Disability Insurance (DI) program to estimate changes in their eligibility and benefits on the basis of earnings. In addition, the bill would prohibit SSA from recovering certain overpayments made to beneficiaries who relied on inaccurate information produced by the online tool.

Using information on the costs of setting up similar online tools and information from SSA, CBO estimates that implementing the bill would cost \$2 million over the 2019–2023 period; such spending would be subject to the availability of appropriated funds. CBO estimates there would be no budgetary effects from the prohibition on collecting certain overpayments because SSA does not collect overpayments in similar situations under its current practices.

Enacting H.R. 3309 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3309 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

CBO has not reviewed H.R. 3309 for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act legislative provisions related to the Old-Age, Survivors, and Disability Insurance program under title II of the Social Security Act (including taxes imposed by sections 3101(a) and 311(a) of the Internal Revenue Code of 1986). CBO has determined that H.R. 3309 falls within that exclusion because it concerns the DI program.

The CBO staff contacts for this estimate are Justin Latus (for federal costs) and Andrew Laughlin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

**V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

**A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee’s review of the provisions of H.R. 3309 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

#### B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

#### C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

#### D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

#### E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

#### F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.