

as we think about our role in the U.N. after this war is over.

#### TRIBUTE TO SERGEANT MORALES AND CORPORAL RODRIGUEZ

(Mr. ACEVEDO-VILÁ asked and was given permission to address the House for 1 minute.)

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise to pay tribute to two Puerto Rican soldiers who died recently in the Middle East. Sergeant Orlando Morales, a soldier who served in Special Operations in Afghanistan, and who died after being wounded in an ambush last Saturday as part of Operation Enduring Freedom. Sergeant Morales' Special Operations battalion took on hostile fire during a reconnaissance mission. Marine Corporal Robert M. Rodriguez was killed in action on March 27 when his tank crashed into the Euphrates River during combat operations northwest of An Nasiriyah. The United States and Puerto Rico lost true patriots in both these brave men.

While I did not personally know them, there are thousands of dedicated soldiers like them active in the Armed Forces from Puerto Rico and of Puerto Rican descent. My thoughts and prayers are with their families and loved ones and with our troops in the Middle East. I am here today to recognize their sacrifice to the United States and to Puerto Rico.

I want to also take this opportunity to let my colleagues know that Puerto Ricans today, as throughout our history with the U.S., remain in steadfast commitment to our armed services.

We must forever recognize the tens of thousands like Sergeant Morales and Corporal Rodriguez who have died or have been wounded in combat. During the Korean War, General Douglas MacArthur said of the forces of the much-heralded 65th Infantry, the fighting Borinqueneers from Puerto Rico, and I quote, "They are writing a brilliant record of achievement in battle and I am proud indeed to have them in this command."

I ask my colleagues to honor these soldiers and to recognize the ongoing Puerto Rican commitment to the United States military.

□ 1015

#### CONGRATULATIONS TO CARLOS DE LA CRUZ

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today I congratulate a man of great honor and integrity, a man who has devoted his life to the cause of serving our community in south Florida, Carlos de la Cruz. Carlos has been selected to receive the 2003 American Red Cross Humanitarian Award for his exceptional contributions to our community. Carlos has had a distinguished ca-

reer in his endeavor to improve the lives of people across our beloved Nation, while the American Red Cross has a fitting tribute, a well deserving one, for Carlos. A native from Cuba, Carlos along with his lovely wife, Rosa, have been examples of true social responsibility. His work with the Red Cross, United Way, and the Urban League inspires us all.

I join the people in south Florida, the American Red Cross, and all of Carlos's family in soluting his extraordinary work. To Carlos, gracias for his devotion and commitment to our beloved south Florida community. We are a better area for his being there.

#### MOURNING THE LOSS OF ODELIA ROBINSON

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I rise this morning to mourn the loss of one of the most significant councilwomen in the city of Cleveland, Odelia Robinson. Odelia Robinson is the former councilwoman in Ward 3. She was succeeded by Zachery Reed, one of the people that she nurtured in public life. Odelia Robinson has always been my friend. Prior to coming to the council, she served in a nurturing profession. She was a nurse and in social work. We in the city of Cleveland will miss this great soldier.

I join with all the people of the 11th congressional district to extend our sympathy and condolences to the family of Odelia Robinson.

#### THE TRADE DEFICIT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, our trade deficit reached an astounding figure of over \$400 billion last year. This means we are still losing millions of jobs to other countries. Now in today's Washington Post, there are headlines saying "White Collar Work a Booming U.S. Export" and "More White Collar Work being Shipped Overseas."

According to this story, one study says by 2015, 3 million white collar jobs and \$140 billion in wages will have shifted from the U.S. to other nations. Another headline in today's Post says "U.S. Manufacturers Cut Back in March."

The disciples of high tech told us not to worry about losing factory jobs, but now we are losing these economy jobs to China, India, and elsewhere. Is it any wonder that college graduates cannot find good jobs and are going to graduate school while working as waiters and waitresses?

We need to start putting U.S. workers first and end trade agreements and government regulations that force more jobs to other countries. If we do

not, Mr. Speaker, the standard of living for most Americans is going to go down, down, down.

#### JESSICA LYNCH COMING HOME

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, this is a good morning to be a West Virginian. We found out last night one of our own is coming home.

Jessica Lynch, a 19-year-old private first class from the 507th Ordnance Maintenance Company is in safe hands right now because of the heroism of her rescuers, the coalition forces. Jessica had been missing for 10 days. She is from Palestine, West Virginia, in Wirt County. Wirt County residents are resilient people who epitomize the can-do spirit of West Virginia, and it was their prayers that brought Jessie home. All of us West Virginians and every American across the Nation can feel the Lynch family's relief now that their daughter is in safe hands.

I stand here today wearing my yellow ribbon because we are waiting for other Americans to come home. We are joyful, thankful, grateful as we see the miraculous rescue of Jessie Lynch.

#### WAR AND PSYCHOLOGY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I want to quote this morning from an article by Mona Charen, "War and Psychology," in which she says: "War never solves anything." So say dozens of callers to C-SPAN" all day long "and left-leaning radio programs."

"The answer to this argument, if you can call it an argument, could almost fit on a bumper sticker. Apart from securing American independence, ending slavery, and defeating Nazism and Communism, 'war has never solved anything,' so the liberals say.

"Anti-war activists tell us that Iraq is a distraction from the more important war against global terrorism. This argument has been dealt a serious blow by the capture of Khalid Sheikh Mohammed."

Frankly, Mr. Speaker, war does solve many things; but we have to win them, and this one we will win.

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

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 168 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 168

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in

the House 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. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the further amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Green of Texas or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

H. Res. 168 is a modified closed rule that provides 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

It waives all points of order against consideration of the bill and provides that the amendment recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted. H. Res. 168 provides for consideration of the amendment printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from Texas (Mr. GREEN) or his designee, which shall be considered as read and shall be separately debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

H. Res. 168 waives all points of order against the amendment printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, I urge my colleagues to join me in approving this rule so that the full House can proceed to work its will on the underlying Social Security reform legislation.

On March 5, just about a month ago, the House considered this bill with an amendment under suspension of the rules. A bipartisan majority of the House voted to approve this bill, 249 to 180, but it fell short of the needed two-thirds majority to pass the House under suspension. So today we are bringing it back to the House for further deliberation.

The controversy that arose during initial consideration of H.R. 743 last

month dealt with the language in this bill closing the so-called "last day rule."

At the recommendation of the General Accounting Office, which estimates that this loophole could cost the Social Security program \$450 million, this bill is seeking to eliminate the "last day rule." The "last day rule" allows some workers in certain States to switch job classifications on their last day of service, pay Social Security payroll taxes for 1 day, and magically become eligible for Social Security spousal or survivor benefits without the government pension offset being applied to their benefits.

H.R. 743 eliminates this problem by requiring individuals to work in a government job that is covered by Social Security for the last 60 calendar months of employment in order to be exempt from the GPO. This is truly a reasonable proposal which should be promptly enacted into law.

The rule before us makes in order an amendment from the gentleman from Texas (Mr. GREEN) which strikes section 418 from H.R. 743. Section 418 is the segment of the legislation that once and for all eliminates the "last day rule." So this rule will allow the House to choose between two starkly different proposals.

One proposal, H.R. 743, gets rid of this loophole which could cost Social Security almost \$500 million. The other proposal, the gentleman from Texas's (Mr. GREEN) amendment, allows this loophole to continue on well into the future, thereby allowing the hemorrhaging of the Social Security program to continue unabated.

I urge my colleagues on both sides of the aisle to support H. Res. 168, a rule that will allow the House to consider and ultimately pass legislation that will improve the lives of millions of senior citizens across the country by strengthening the long-term solvency of the Social Security program.

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

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

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

Mr. FROST. Mr. Speaker, the underlying bill, the Social Security Protection Act, is largely noncontroversial. Its main provisions would deny supplemental security income, SSI, to fugitive felons, make it easier for seniors to get a lawyer for the complicated disability application process, and reform the representative payee program so that seniors are not defrauded. I support all of these reforms, Mr. Speaker.

Unfortunately, this bill also has one very harmful provision. A change in the government pension offset that would hurt teachers, firefighters, police officers and other public servants around the country including in my home State of Texas. Specifically, section 418 of this bill would prevent these hard-working public servants from pro-

tecting their retirement benefits from the harsh impact of the government pension offset.

Mr. Speaker, this issue is somewhat complicated, but it affects thousands and thousands of dedicated teachers and other public servants. So I am going to take a minute to explain how it works. Say one was a teacher and their job has a pension plan that is not covered under Social Security. If their spouse's job pays into Social Security, then they are eligible for spousal or survivor's benefit if their spouse dies. But under current law, the government pension offset reduces or eliminates the spousal or survivor's benefits they deserve.

Fortunately, there is a provision in law right now that helps some people in this situation. It allows one to protect their retirement by switching jobs at the end of their career. This "last day exemption," as it is called, has helped many teachers in Texas and other States protect the Social Security benefits they deserve and that they need to retire. However, section 418 of the underlying bill would eliminate this exemption. Instead it would force teachers, police officers, firefighters, and other public servants to work 5 additional years before receiving full spousal benefits.

Mr. Speaker, that is no way to treat hard-working people who have dedicated their entire lives to serving their communities and this Nation. It hurts real people, especially women and lower-income individuals. That is why it is opposed by teachers organizations like the National Education Association and the American Federation of Teachers.

Mr. Speaker, helping teachers and other public servants is not difficult. In the Committee on Rules yesterday, Democrats offered several amendments to fix the GPO problem. One option was offered by the gentleman from Texas (Mr. DOGGETT). His amendment would protect teachers' retirement by reducing the government pension offset from two thirds to one third, and it would protect the Social Security trust fund. Unfortunately, Republicans on the Committee on Rules refused to allow the House to vote on the Doggett amendment. For that reason, I urge Members to join me in opposing the previous question. If we defeat the previous question, I will offer an amendment to the rule that will allow the House to consider the gentleman from Texas's (Mr. DOGGETT) amendment.

Another option, Mr. Speaker, was offered by the gentleman from Texas (Mr. GREEN). His amendment, which will be considered on the floor today as a Democratic substitute, would simply eliminate section 418 so that teachers and other public servants can continue to protect their retirement benefits. The substitute does not affect the rest of the Social Security Protection Act.

So I urge my colleagues to vote "yes" on the Green amendment. That way we can support Social Security

fairness for teachers, firefighters, and police officers.

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

□ 1030

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, what is happening here this morning provides yet another example of the complete indifference of this House Republican leadership to the retirement security of millions of older Americans. Like their pseudo-prescription drug plan, which is not a plan to help seniors but only a scheme to subsidize HMOs and deny seniors their choice of doctors; like their persistence in seeking to privatize and undermine our Social Security system and end the basic guaranteed retirement upon which so many Americans have relied for the last seven decades. Today, Republicans reject the pleas of firefighters, of police officers, of teachers, and of the other public servants who have asked this Congress for years to correct the government pension offset that cuts into their retirement security after they have served America, often at very low wages in very critical jobs.

The Republicans' refusal to permit debate on the amendment that I offered or the amendment that our colleague, the gentleman from Louisiana (Mr. JEFFERSON) offered can only add to the cynicism of those who have strived for so long to have their voices heard in this Congress on this matter and who have yet to even get a vote on the floor, much less passage, of this measure.

Almost 200 Members of this House, including a substantial number of Republicans, have signed on as sponsors to a bill to repeal the government pension offset. The gentleman from Florida (Mr. SHAW), the gentleman from Texas (Mr. CULBERTSON), the gentleman from Kentucky (Mr. LEWIS), the gentleman from Florida (Mr. FOLEY), the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Michigan (Mr. SMITH), Republicans all, and proud of it, sponsored last session and again this session a more modest proposal: Just cut the government pension offset in half and provide half a loaf to those firefighters and teachers. That proposal has been filed again this year as H.R. 75.

Now, for some unknown reason, though he is chairman of the subcommittee with the sole jurisdiction over this matter, the gentleman from Florida (Mr. SHAW) has never even bothered to ask for a hearing on his very own proposal, much less ask for a vote on it, much less bring it to the floor of this House.

So I acted in a very modest way, joined our colleague, the gentleman from Florida (Mr. SHAW) in committee when this measure was forced back to the committee for its first-ever vote, and we offered the bill for the gentleman from Florida (Mr. SHAW).

We were prouder of it than he was. We asked for a vote from him but, more importantly, for the millions of Americans, retirees, near retirees, who serve the public, who are counting on these Republicans to address their retirement security issues, we asked for a vote on their proposal, written not in our words but in the Republican author's words.

And what happened? Well, these Republicans who did not have the slightest intention of ever advancing the proposal that they offered, they all voted against their own proposal. And so in the Committee on Rules, quite naturally, they said they do not want to bring these amendments out here to the floor, because the Republicans will vote against the very proposals that they have been writing to their constituents about and that they are sponsoring.

This kind of total contradiction is what makes so many Americans question whether this institution, this House of Representatives, is the people's House and whether it is doing the people's business.

Mr. Speaker, it is very interesting that though he has been largely in charge here for the last eight years, our colleague, the gentleman from Texas, now the Republican majority leader, says he agrees with our position, not their position. He wrote one constituent recently: "I strongly believe that the GPO is an unfair and misguided piece of legislation. It undercuts the people who have spent their entire working life paying into the Social Security system by denying them their fair share of the hard-earned money they contributed. Married couples should be able to share those benefits with their spouses."

I could not have said it better myself. But words will not solve the problems of these teachers, firefighters, and police officers. This House can solve the problem. This House can solve it by voting today to support the previous question so we can get action on the floor. Words will not make any difference to the people out there who are counting on us. Letters and e-mails to constituents will not make any difference. A vote on the House floor to correct this problem, to adopt verbatim the Republican legislation and do it here on the floor of the House will respond to the needs of people across this country.

Mr. Speaker, there are those who help us provide security, security for our families, and they deserve a little retirement security. The Republicans know how to fix this problem; they have war-gamed against the enemy that undermines the retirement security. All they have to do is pass the relevant provisions of the Shaw bill and we want to give them that opportunity to pass a Republican piece of legislation. For once, a piece of legislation that will strengthen retirement security instead of undermining it like their prescription drug and privatized Social Security schemes.

We ask them to join with us today in a key vote, the first vote on the government pension offset by supporting the leadership of the gentleman from Texas (Mr. FROST) on the previous question. We will provide real retirement security coverage to the people of this country, not just political coverage, which is apparently all the authors of this legislation originally had in mind.

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

Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will allow the House to consider the Doggett pension offset amendment that was voted down in the Committee on Rules yesterday. The Doggett amendment would reduce the government pension offset of Social Security spousal and survivors benefits from two-thirds to one-third of the government pension. It would hold the trust fund harmless for the cost of the benefit improvement by making annual transfers from the general funds to the Social Security Trust Fund.

Mr. Speaker, I ask unanimous consent to insert the text of the previous question immediately prior to the vote.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, vote "no" on the previous question so we can help all those who are unfairly penalized in their pension benefits simply because one spouse is a government employee and one works for the private sector. Let us support those who go into public service, not punish them.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the previous question on H.R. 743. I will vote no on this motion, I will vote in favor of the Green amendment. The bill failed when it was first brought to the floor earlier, because of a controversial provision (section 418) and was an abuse of the suspension procedure, which is intended for non-controversial legislation.

Section 418, which modifies an exemption to the Social Security Government Pension Offset (GPO) remains in the bill. The GPO is designed to treat workers who are not covered by Social Security (some federal, state and local government employees) the same as workers who are covered by Social Security and therefore pay FICA taxes. Texas teachers benefit from the use of the exemption. The Texas teachers' pension system is uniquely suited to use of this exemption.

I have heard from many teachers in Houston who do not want me to support H.R. 743. The National Education Association supports the Green substitute that would strike Section 418 from the Social Security Protection Act (H.R. 743).

NEA strongly opposes Section 418, which would prevent teachers from protecting their retirement benefits from the harsh impacts of the Government Pension Offset (GPO).

The GPO unfairly reduces the retirement benefits of public employees who have dedicated their lives to serving their communities

and their country. 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 counted on.

Instead of addressing what is clearly a response to a larger issue of unfairness, we strongly believe that Congress should focus on remedying the underlying problem by repealing the Government Pension Offset. Addressing the broader issue would make provisions such as Section 418 unnecessary.

The House rejected H.R. 743 last month because of Section 418. Now, supporters are bringing the bill back to the floor for yet another vote. The Green substitute offers an important opportunity to strike this controversial and unfair provision from an otherwise non-controversial bill.

I urge my colleagues to vote against the previous question, and to vote in support of the Green substitute. I strongly urge my colleagues to reject H.R. 743 as currently written and instead to support the Green substitute.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 168—SOCIAL SECURITY PROTECTION ACT

In the resolution strike "and (3)" and insert the following:

"(3) the further amendment printed in Sec. 2 of the resolution if offered by Representative Doggett of Texas or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (4)".

Sec. 2. (Insert text of the amendment):

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 743, AS REPORTED

OFFERED BY MR. DOGGETT 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.

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

Sec. 419. Government pension offset reduced from two-thirds to one-third of the government pension.

**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 (1)(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 com-

munity-based nonprofit social service agency (as defined in paragraph (9))";

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

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

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

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

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

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

(B) in subparagraph (D)(ii)—

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

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

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

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

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

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

(b) PERIODIC ONSITE REVIEW.—

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

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct,

the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

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

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

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

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

"(i) the number of such reviews;

"(ii) the results of such reviews;

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

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

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

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

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

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

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

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

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

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

(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this

title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

- “(A) the number of such reviews;
- “(B) the results of such reviews;
- “(C) the number of cases in which the representative payee was changed and why;
- “(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;
- “(E) the number of cases discovered in which there was a misuse of funds;
- “(F) how any such cases of misuse of funds were dealt with by the Commissioner;
- “(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and
- “(H) such other information as the Commissioner deems appropriate.”.

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

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

- “(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;
- “(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or
- “(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

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

- “(I) the number of the reviews;
- “(II) the results of such reviews;
- “(III) the number of cases in which the representative payee was changed and why;
- “(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;
- “(V) the number of cases discovered in which there was a misuse of funds;
- “(VI) how any such cases of misuse of funds were dealt with by the Commissioner;
- “(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and
- “(VIII) such other information as the Commissioner deems appropriate.”.

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

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

- (1) in subparagraph (B)(i)—
  - (A) by striking “and” at the end of subclause (III);
  - (B) by redesignating subclause (IV) as subclause (VI); and
  - (C) by inserting after subclause (III) the following new subclauses:
    - “(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.
    - “(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and”;

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

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

- “(I) such person is described in section 202(x)(1)(A)(iv),
  - “(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and
  - “(III) the location or apprehension of such person is within the officer’s official duties.”;
- (3) in subparagraph (C)(i)(II), by striking “subparagraph (B)(i)(IV),” and inserting “subparagraph (B)(i)(VI)” and striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(VI)”;

(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 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

(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 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”; 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:

“(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 dis-

closure 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.”; 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 ca-

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 re-

spect 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)”;

(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’;

“(ii) 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)’;”;

(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”.

**SEC. 419. GOVERNMENT PENSION OFFSET REDUCED FROM TWO-THIRDS TO ONE-THIRD OF THE GOVERNMENT PENSION.**

(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 “two-thirds” and inserting “one-third”.

(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 “two-thirds” and inserting “one-third”.

(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 “two-thirds” and inserting “one-third”.

(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 “two-thirds” and inserting “one-third”.

(e) MOTHER’S AND FATHER’S INSURANCE BENEFITS.—Section 202(g)(4)(A) of such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking “two-thirds” and inserting “one-third”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months ending after the date of the enactment of this Act.

(g) ANNUAL REIMBURSEMENT OF TRUST FUND.—There are authorized to be appropriated from time to time to the Federal Old-Age and Survivors Insurance Trust Fund such sums as are necessary for any fiscal year, on account of—

(1) amounts paid or to be paid from such Trust Fund under title II of the Social Security Act solely by reason of the amendments made by this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as the position in which it would have been if the preceding provisions of this section had not been enacted.

**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(m) of the Social Security Act (42 U.S.C. 402(m)) (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)”;

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

(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”.

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

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. FROST. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8(a)(2)(f) of rule XX, further proceedings on this question will be postponed.

**GENERAL LEAVE**

Mr. BACHUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous materials on the bill H.R. 522, the Federal Deposit Insurance Reform Act of 2003.

The SPEAKER pro tempore (Mr. LINDER). Is there objection to the request of the gentleman from Alabama?

There was no objection.

**FEDERAL DEPOSIT INSURANCE REFORM ACT OF 2003**

The SPEAKER pro tempore (Mr. LINDER). Pursuant to the order of the House of Tuesday, April 1, 2003 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 522.

□ 1039

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 522) to reform the Federal deposit insurance

system, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, April 1, 2003, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alabama (Mr. BACHUS) and the gentleman from Massachusetts (Mr. FRANK) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I rise in support of H.R. 522, the Federal Deposit Insurance Reform Act of 2003. I want to begin by thanking the gentleman from Ohio (Mr. OXLEY), the chairman of the committee, for his tremendous leadership in steering what is a complex bill through the legislative process. I also want to thank the ranking member of the committee, the gentleman from Massachusetts (Mr. FRANK), for his support of this important piece of legislation. The committee and the Congress in its votes on this legislation in the past, legislation very similar, has shown that it can work together in a very bipartisan manner.

Deposit insurance reform has been thoroughly discussed and debated over the past several years. During the 107th Congress, I introduced comprehensive deposit insurance reform, H.R. 3717. The legislation was a by-product of recommendations by the FDIC in early 2001, industry representatives coming together urging that we take action. The American Banking Association, The Credit Union National Association, Independent Bankers and Financial Services Roundtable, all urging the Federal Reserve, the administration, urging us to take action to reform Federal deposit insurance. We did take action, and the 107th Congress passed H.R. 3717 by a vote of 408 to 18.

Unfortunately, that bill died in the other body.

Earlier this year, I introduced the same legislation. This time it is H.R. 522, the Deposit Insurance Reform Act of 2003. The gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) joined me in introducing this legislation, along with 57 other cosponsors on both sides of the aisle. It was approved by the Committee on Financial Services by a unanimous voice vote. I am pleased that the Senate now plans to act on similar legislation in the very near future, and that the President's budget for fiscal year 2004 outlines a proposal similar to our legislation.

The legislation is supported not only by American bankers, the Financial Services Roundtable made up of the 100 largest financial corporations in America, but also by the credit unions, the thrift associations, the community bankers, the securities industry, and also by groups that we sometimes do not find on the same side; the American Association of Retired Persons has recently endorsed this legislation.

Federal deposit insurance has been the hallmark of our Nation's banking system for almost 70 years. The reforms made by this legislation will ensure that the system that serves savers and depositors so well for so long will continue for future generations.

What does the legislation do? First, it merges separate insurance funds that currently apply to deposits held by banks on the one hand and savings associations on the other, creating a stronger, more stable fund that benefits banks and thrifts alike.

Second, it changes the “pro-cyclical” bias of the current system. In other words, it spreads out over time the assessments to the institutions which results in, by doing this, a more uniform assessment. Presently we have sharply higher premiums served during recessionary times and much lower premiums during good times. Banks can least afford to pay a higher premium during recessions, and we found that out, and this corrects that.

□ 1045

Third, the legislation includes modest increases in the amount of coverage available. The system has gone from 1980 without an increase in coverage. If we took 1980 as our basis and we increased coverage based on inflation, we would go to \$200,000. If we went back to 1980, the \$100,000, and we increased it based on per capita income, it would actually go to \$300,000. So we are proposing \$130,000, a very modest increase.

If we went back to 1974, because some have said they should not have raised it in 1980, they should have kept it at the 1974 level, and we increased it for inflation, it would go to \$140,000.

Mr. Chairman, there are some who will offer amendments who have actually publicly stated that they do not believe in Federal deposit insurance, one of the gentlemen offering an amendment later on. So there are Members of the body who do not believe that our deposits in banks should be federally insured.

I understand that; but I, for one, disagree with that. I think Americans have come to rely and have a sense of security in knowing that when they put their retirement funds in a bank or thrift that it is federally insured. Particularly in light of the recent volatility on Wall Street, people have, I think, come to rely more and value more the fact that they can put their money in a federally insured financial institution and not lose that money.

All of us have heard from community bankers in our districts about the challenges that they face in competing for deposits with large-money center banks that are perceived by the market, rightly or wrongly, as being too big to fail. By strengthening the deposit insurance system, our legislation will help small neighborhood-based financial institutions across the country, especially in rural areas, continue to play an important role in financing economic development.