

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 2843, as amended, a bill to provide for the joint appointment of the Architect of the Capitol by the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and minority leaders of the House of Representatives and Senate, and the chairs and ranking minority members of the committees of Congress with jurisdiction over the Office of the Architect of the Capitol, and for other purposes.

I extend my thanks to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), Chairwoman of the Appropriations Committee, Subcommittee on Legislative Branch, and the gentleman from Alabama (Mr. ADERHOLT), Ranking Member of the Subcommittee, as well as the gentleman from Pennsylvania (Mr. BRADY), Chairman, and the gentleman from California (Mr. LUNGREN), Ranking Member of the Committee on House Administration, for their cooperation and willingness to work with the Committee on Transportation and Infrastructure on this bill.

The Committee on Transportation and Infrastructure has a long and productive association with the Office of the Architect of the Capitol. Under House rule X, section (r), the Committee on Transportation and Infrastructure has jurisdiction over the Capitol Building and the House and Senate Office Buildings, in addition to public buildings and occupied or improved grounds of the United States generally. Over the years, the Committee has worked with the Architect's office on developing the Capitol Hill master plan, Capitol Hill Building fire and life safety programs, parking studies, and most recently on requirements in the Energy Independence and Security Act of 2007 (P.L. 110-140) to ensure the energy efficiency of not only the House and Senate office buildings, but also to upgrade the Capitol Power Plant.

This bill provides congressional leaders with authority to appoint the Architect of the Capitol, and the appointments process includes House as well as Senate leadership, both majority and minority.

I urge my colleagues to join me in supporting H.R. 2843.

Mr. BRADY of Pennsylvania. Mr. Speaker, H.R. 2843, is a bipartisan initiative that would move the Architect of the Capitol selection process entirely to the legislative branch. This legislation has been amended from the version reported by the Committee on House Administration to include two additional House and two additional Senate Members. As amended, this legislation provides the following with authority to select the AOC: The Speaker of the House, the President Pro Tempore of the Senate, the majority and minority leaders of the House of Representatives and Senate, the chair and ranking minority member of the Committee on House Administration of the House of Representatives, the chair and ranking minority member of the Committee on Rules and Administration of the Senate, the chair and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives, the chairs and ranking minority members of the Committees on Appropriations of the House of Representatives and Senate, a Member of the Senate to be designated by the majority leader of the Senate, and a Member of the Senate to be designated by the minority leader of the Senate.

Under the current system, the office of the Architect has been vacant for nearly 3 years.

The long delay in filling the position has been exacerbated by the complexities and uncertainties of the current law, and the involvement of the executive branch.

The Committee on House Administration believes that enactment of H.R. 2843 will streamline the selection process.

I urge my colleagues to support this legislation.

Mr. DANIEL E. LUNGREN of California. And urging support of that, I yield back the balance of my time.

Ms. WASSERMAN SCHULTZ. I yield back the balance of my time.

□ 1100

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) that the House suspend the rules and pass the bill, H.R. 2843, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "To provide for the joint appointment of the Architect of the Capitol by the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and minority leaders of the House of Representatives and Senate, the chair and ranking minority member of the Committee on House Administration of the House of Representatives, the chair and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives, the chair and ranking minority member of the Committee on Rules and Administration of the Senate, the chairs and ranking minority members of the Committees on Appropriations of the House of Representatives and Senate, and two other designated members of the Senate, and for other purposes."

A motion to reconsider was laid on the table.

#### SOCIAL SECURITY DISABILITY APPLICANTS' ACCESS TO PROFESSIONAL REPRESENTATION ACT OF 2010

Mr. TANNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4532) to provide for permanent extension of the attorney fee withholding procedures under title II of the Social Security Act to title XVI of such Act, and to provide for permanent extension of such procedures under titles II and XVI of such Act to qualified non-attorney representatives.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4532

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Disability Applicants' Access to Professional Representation Act of 2010".

#### SEC. 2. PERMANENT EXTENSION OF ATTORNEY FEE WITHHOLDING PROCEDURES TO TITLE XVI.

(a) IN GENERAL.—Section 302 of the Social Security Protection Act of 2004 (Public Law 108-203; 118 Stat. 519) is amended—

(1) in the section heading, by striking "temporary"; and

(2) in subsection (c), by striking "EFFECTIVE DATE.—" and all that follows through "The amendments" and inserting "EFFECTIVE DATE.—The amendments", and by striking paragraph (2).

(b) CLERICAL AMENDMENT.—The item relating to section 302 in the table of contents in section 1(b) of such Act is amended by striking "Temporary extension" and inserting "Extension".

#### SEC. 3. PERMANENT EXTENSION OF FEE WITHHOLDING PROCEDURES TO QUALIFIED NON-ATTORNEY REPRESENTATIVES.

(a) IN GENERAL.—Section 206 of the Social Security Act (42 U.S.C. 406) is amended by adding at the end the following new subsection:

"(e)(1) The Commissioner shall provide for the extension of the fee withholding procedures and assessment procedures that apply under the preceding provisions of this section to agents and other persons, other than attorneys, who represent claimants under this title before the Commissioner.

"(2) Fee-withholding procedures may be extended under paragraph (1) to any non-attorney representative only if such representative meets at least the following prerequisites:

"(A) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

"(B) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of this Act and the most recent developments in agency and court decisions affecting this title and title XVI.

"(C) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

"(D) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

"(E) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under this title and title XVI. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

"(3)(A) The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in paragraph (2).

"(B) Fees collected under subparagraph (A) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner determines appropriate.

"(C) The fees authorized under this paragraph 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 administering the prerequisites described in paragraph (2).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1631(d)(2)(A) of such Act (42 U.S.C. 1383(d)(2)(A)) is amended—

(A) in clause (iv), by striking "and" at the end;

(B) in clause (v), by striking the period at the end and inserting "; and"; and

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

"(vi) by substituting, in subsection (e)(1)—

"(I) 'subparagraphs (B) and (C) of section 1631(d)(2)' for 'the preceding provisions of this section'; and

"(II) 'title XVI for 'this title'.'".

(2) Section 303(e)(2) of the Social Security Protection Act of 2004 (Public Law 108-203; 118 Stat. 523) is amended by striking "AND FINAL REPORT" in the heading and by striking the last sentence.

(c) EFFECTIVE DATE.—The Commissioner of Social Security shall provide for full implementation of the provisions of section 206(e) of the Social Security Act (as added by subsection (a)) and the amendments made by subsection (b) not later than March 1, 2010.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. TANNER) and the gentleman from Texas (Mr. SAM JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

#### GENERAL LEAVE

Mr. TANNER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 4532.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. TANNER. I yield myself as much time as I may consume.

I want to thank Mr. JOHNSON for being here and being able to work together to work this out.

As you know, Mr. Speaker, for the past several years, one of the top priorities of our Ways and Means Subcommittee on Social Security has been helping the hundreds of thousands of Americans who have been waiting sometimes over a year or two for a hearing on their disability case due to the large backlog. We have urged the Social Security Administration to make eliminating this backlog a top priority.

I want to thank Chairman OBEY for his commitment to ensuring that the Social Security Administration has resources to address the issue effectively.

We join today with Mr. JOHNSON, Mr. McDERMOTT, and Mr. LINDER on this bill to provide access to professional representation. The benefit application process can be very complicated, as many know; and this bill would help ensure that the applicants can get professional representation and help when they need it. It makes permanent an existing program to increase access to

professional representation. And without the passage of this bill, the program would expire March 1.

It has the support of many organizations that are engaged in this effort. I would like to insert into the RECORD this morning a couple of letters from some of those people.

#### CONSORTIUM FOR CITIZENS WITH DISABILITIES, February 1, 2010.

Hon. JOHN TANNER,  
*Chairman, Subcommittee on Social Security,  
Committee on Ways and Means, House of  
Representatives, Washington, DC.*

Hon. SAM JOHNSON,  
*Ranking Member, Subcommittee on Social Security,  
Committee on Ways and Means, House  
of Representatives, Washington, DC.*

Hon. JIM McDERMOTT,  
*Chairman, Subcommittee on Income Security  
and Family Support, Committee on Ways  
and Means, House of Representatives,  
Washington, DC.*

Hon. JOHN LINDER,  
*Ranking Member, Subcommittee on Income Security  
and Family Support, Committee on  
Ways and Means, House of Representatives,  
Washington, DC.*

DEAR CHAIRMAN TANNER, CHAIRMAN McDERMOTT, RANKING MEMBER JOHNSON, AND RANKING MEMBER LINDER: On behalf of the undersigned members of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force, we are writing in support of H.R. 4532, the "Social Security Disability Applicants' Access to Professional Representation Act of 2010." H.R. 4532 makes permanent two provisions included in the Social Security Protection Act of 2004 (SSPA), P.L. 108-203, designed to improve access to representation for claimants applying for Social Security disability and Supplemental Security Income benefits.

Section 302 of the SSPA authorized the withholding and direct payment of attorneys' fees in Supplemental Security Income cases. Section 303 established a demonstration project to allow withholding and direct payment of fees to eligible non-attorney representatives. Both programs are scheduled to sunset on February 28, 2010. Because both programs have been successful, we are writing to support their permanent continuation.

#### WITHHOLDING AND DIRECT PAYMENT OF FEES IN SSI CASES

Section 302 of the SSPA amended section 1631(d)(2) of the Social Security Act to extend the Title II fee withholding and direct payment procedures to claims under Title XVI of the Act.

The CCD Social Security Task Force has long supported allowing SSI claimants to enter into voluntary agreements with attorneys which would allow SSA to withhold and provide direct payment of attorneys' fees from past due SSI benefits. The SSPA established this provision and extended it to attorneys and non-attorney representatives who qualify under the Section 303 demonstration (described below). The SSA disability determination process is very complex and beyond the capacity, training, or experience of many claimants to negotiate without knowledgeable assistance. By ensuring that representatives will be paid a fee for successful work on a claimant's behalf, this provision has helped to assure that a knowledgeable, experienced pool of representatives is available to claimants. The limit on fees and the involvement of SSA in establishing the fees helps to ensure that the fees are reasonable. Experience has demonstrated that this provision has increased opportunities for SSI claimants to obtain representation.

#### FEE WITHHOLDING FOR QUALIFIED NON- ATTORNEY REPRESENTATIVES

Section 303 of the SSPA established a demonstration program to examine the effectiveness of allowing non-attorney representatives to qualify for fee withholding. In order to qualify, the non-attorneys must possess a bachelor's degree (or equivalent experience) and malpractice insurance coverage; pass a background check; complete a test examining knowledge of the Social Security disability system; and maintain continuing education in areas directly related to Social Security disability programs. To date, the demonstration program has been successfully implemented. We believe that claimants benefit from the availability of qualified non-attorneys and we urge that the sunset date be lifted.

#### CONCLUSION

CCD appreciates your efforts to assure that claimants applying for Social Security disability and Supplemental Security Income benefits receive the benefits to which they are entitled. Access to an experienced and qualified representative to guide claimants through the lengthy and often-confusing process is key to a timely and well-informed decision by SSA. Since the SSPA was enacted, the provisions detailed above have proven their effectiveness in increasing claimants' access to effective representation. For these reasons, we urge Congress to move quickly to extend and make permanent both programs so that there is no gap or delay which might affect claimants' cases and/or their ability to receive knowledgeable assistance.

Sincerely,

MARTY FORD,  
*The Arc and United  
Cerebral Palsy Dis-  
ability Policy Col-  
laboration.*

PEGGY HATHAWAY,  
*United Spinal Associa-  
tion and National  
Spinal Cord Injury  
Association.*

SUSAN PROKOP,  
*Paralyzed Veterans of  
America.*

PAUL SEIFERT,  
*Council of State Ad-  
ministrators of Voca-  
tional Rehabilitation.*

Co-Chairs, CCD Social Security Task Force.

On behalf of:

American Council of the Blind

Bazelon Center for Mental Health Law

Community Access National Network

Council of State Administrators of Vocational Rehabilitation

National Association for Disability Representatives

National Council for Community Behavioral Healthcare

National Council on Independent Living

National Organization of Social Security Claimants' Representatives

National Spinal Cord Injury Association

Paralyzed Veterans of America

Research Institute for Independent Living

The Arc of the United States

United Cerebral Palsy

United Spinal Association

NATIONAL ASSOCIATION OF  
DISABILITY REPRESENTATIVES,  
Washington, DC, January 29, 2010.

Hon. JOHN TANNER,  
*Chairman, Subcommittee on Social Security,  
Committee on Ways & Means, House of Rep-  
resentatives, Washington, DC.*

Hon. SAM JOHNSON,  
*Ranking Member, Committee on Ways & Means,  
House of Representatives, Washington, DC.*

Hon. JIM MCDERMOTT,  
*Chairman, Subcommittee on Income Security,  
Committee on Ways & Means, House of Rep-  
resentatives, Washington, DC.*

Hon. JOHN LINDER,  
*Ranking Member, Subcommittee on Income Se-  
curity, Committee on Ways & Means, House  
of Representatives, Washington, DC.*

DEAR CHAIRMEN TANNER AND MCDERMOTT  
AND RANKING MEMBERS JOHNSON AND LINDER:  
On behalf of The National Association of  
Disability Representatives (NADR), a profes-  
sional organization comprised of non-attor-  
neys and attorneys who assist people in ap-  
plying for disability income assistance from  
the Social Security Administration, I am  
writing to offer our strong support for H.R.  
4532, the "Social Security Disability Appli-  
cants' Access to Professional Representation  
Act of 2010." The legislation will make per-  
manent two provisions included in the Social  
Security Protection Act of 2004 (SSPA), P.L.  
108-203, designed to improve access to re-  
presentation for claimants applying for Social  
Security disability and Supplement Security  
disability benefits. Both programs are sched-  
uled to sunset on February 28, 2010.

#### WITHHOLDING AND DIRECT PAYMENT OF FEES IN SSI CASES

Section 2 of the proposed legislation  
amends Section 302 of the SSPA to perma-  
nently extend fee-withholding procedures for  
attorneys and qualified non-attorney rep-  
resentatives to claims under Title XVI of the  
Act. This provision of the SSPA has in-  
creased opportunities for SSI claimants to  
obtain representation and should be ex-  
tended. Without Title XVI fee withholding,  
the most vulnerable among us may be unable  
to get the help they need in negotiating the  
Social Security claims process.

#### FEE WITHHOLDING FOR QUALIFIED NON- ATTORNEY REPRESENTATIVES

Section 3 of the bill makes permanent a  
demonstration program established in Sec-  
tion 303 of the SSPA to examine the effec-  
tiveness of non-attorney representatives who  
qualify for fee withholding by possessing a  
bachelor's degree (or equivalent experience),  
passing an examination, securing liability  
insurance, undergoing a background check  
and demonstrating ongoing completion of  
qualified courses of continuing education.  
The Government Accountability Office re-  
leased a report in October 2007 analyzing the  
performance of non-attorney representatives  
in disability cases before the Social Security  
Administration. The study results indicated  
that non-attorney representatives who met  
the criteria necessary for fee withholding  
demonstrated levels of knowledge and suc-  
cess rates at least equal to that of practicing  
attorneys.

The demonstration program has proven to  
be extremely effective in improving access to  
qualified representatives for claimants. Just  
as important, many NADR members work  
with claimants from the initial application,  
which serves not only to expedite valid  
claims, but also to provide counseling that  
can weed out inappropriate cases before they  
enter the system. Once a claimant does enter  
the system, qualified representatives who  
understand the requisite objective documen-  
tary needs can assist the claims examiner  
and adjudicators to gather this critical infor-  
mation in a timely manner. All this leads to  
savings of time and resources.

Access to an experienced and qualified rep-  
resentative to guide claimants through the  
lengthy and often-confusing disability-  
claims process is key to a timely and well-  
informed decision by SSA. For all these rea-  
sons, NADR urges the House to pass H.R. 4532  
as quickly as possible in order to ensure that  
these fee-withholding provisions remain in  
effect without interruption.

Sincerely,

SCOT E. WHITAKER,  
*President.*

NATIONAL ORGANIZATION OF SOCIAL  
SECURITY CLAIMANTS' REPRESENT-  
ATIVES,  
Englewood Cliffs, NJ, February 3, 2010.

Hon. JOHN TANNER,  
*Chairman, Subcommittee on Social Security,  
Committee on Ways and Means, House of  
Representatives, Washington, DC.*

Hon. SAM JOHNSON,  
*Ranking Member, Subcommittee on Social Se-  
curity, Committee on Ways and Means, House  
of Representatives, Washington, DC.*

Hon. JIM MCDERMOTT,  
*Chairman, Subcommittee on Income Security  
and Family Support, Committee on Ways  
and Means, House of Representatives,  
Washington, DC.*

Hon. JOHN LINDER,  
*Ranking Member, Subcommittee on Income Se-  
curity and Family Support, Committee on  
Ways and Means, House of Representatives,  
Washington, DC.*

DEAR CHAIRMEN TANNER, CHAIRMAN  
MCDERMOTT, RANKING MEMBER JOHNSON, AND  
RANKING MEMBER LINDER: We are writing in  
strong support of H.R. 4532, the "Social Se-  
curity Disability Applicants' Access to Profes-  
sional Representation Act of 2010."

Applying for Social Security disability and  
Supplemental Security Income disability  
benefits can be a confusing, complicated, and  
difficult process. While claimants have the  
right to be represented, it is a hollow right  
if there is no realistic way to obtain rep-  
resentation.

The Social Security Protection Act of 2004  
(SSPA), Pub. L. No. 108-203, included two  
provisions intended to help claimants obtain  
representation: (1) the withholding and di-  
rect payment of fees in Supplemental Se-  
curity Income (SSI) cases; and (2) establishing  
a demonstration project to allow eligible  
non-attorney representatives the option of  
withholding and direct payment of fees in  
both Title II and SSI cases. Under the SSPA,  
both of these provisions are scheduled to  
"sunset" after a five-year period, which  
would be March 1, 2010. Because both  
projects have been successful, we are writing  
to support their permanent continuation.  
H.R. 4532 accomplishes this goal.

Established in 1979, the National Organi-  
zation of Social Security Claimants' Rep-  
resentatives (NOSSCR) is an association of  
nearly 4,000 attorneys and paralegals who  
represent Social Security and SSI claimants  
seeking to obtain disability and income se-  
curity benefits. NOSSCR members are com-  
mitted to providing high quality representa-  
tion for claimants, to maintaining a system  
of full and fair adjudication for every claim-  
ant, and to advocating for beneficial change  
in the disability determination and adjudica-  
tion process.

#### WITHHOLDING AND DIRECT PAYMENT OF FEES IN SSI CASES

Section 302 of the SSPA amended section  
1631(d)(2) of the Social Security Act to ex-  
tend the Title II attorney fee withholding  
and direct payment procedures to claims  
under Title XVI of the Act. This provision  
became effective for SSI fees paid on or after  
February 28, 2005.

Extending the existing fee withholding and  
direct payment provisions for Title II cases

to Title XVI cases has made a measurable  
difference in the ability of SSI claimants to  
obtain representation. SSA's statistics for  
the hearing level show representation of SSI  
claimants has increased in every year since  
the SSPA provision was implemented.

Section 302 includes a sunset provision.  
Under that provision, the amendments made  
by section 302 will not apply to claims for  
benefits with respect to which the claimant  
and the representative enter into the agree-  
ment for representation after February 28,  
2010.

Because the SSPA change has increased  
the opportunities for SSI claimants to ob-  
tain representation, we support the provision  
in H.R. 4532, which makes this provision per-  
manent.

#### NON-ATTORNEY REPRESENTATIVES

Section 303 of the SSPA directs the Com-  
missioner to carry out a five-year nation-  
wide demonstration project to determine the  
potential results of extending the fee with-  
holding and direct payment procedures that  
apply to attorneys under Titles II and XVI of  
the Social Security Act to non-attorney rep-  
resentatives who meet certain minimum pre-  
requisites specified in section 303 and any ad-  
ditional prerequisites that the Commissioner  
may prescribe.

Under the prerequisites specified in section  
303, individuals applying to participate in  
the demonstration project must have a bach-  
elor's degree or equivalent education, possess  
liability insurance or equivalent insurance  
adequate to protect claimants in the event of  
malpractice by the representative, pass a  
criminal background check ensuring fitness  
to practice before SSA, pass an examination  
testing knowledge of the relevant provisions  
of the Act and the most recent developments  
in Agency and court decisions, and demon-  
strate ongoing completion of qualified  
continuing education courses. In addition,  
the Commissioner has required that individ-  
uals applying to participate in the dem-  
onstration project show that they have suffi-  
cient prior experience representing claim-  
ants before SSA.

The five-year demonstration project on di-  
rect payment of fees to eligible non-attor-  
neys began on February 28, 2005, and also is  
scheduled to "sunset" at the end of five  
years. The demonstration project established  
by SSPA section 303 applies to claims for  
benefits with respect to which the agreement  
for representation is entered into after Feb-  
ruary 27, 2005 and before March 1, 2010.

We support the provision in H.R. 4532 that  
makes this provision permanent. We believe  
that, to date, the demonstration project has  
been successfully implemented by the con-  
tractor engaged by the Social Security Ad-  
ministration, CPS Human Resource Services.  
By all reports, the contractor has done a  
good job administering the demonstration  
project including periodic administration of  
the examination and ensuring that the other  
required criteria are met.

We appreciate your support for improving  
SSA's service for individuals who are apply-  
ing for benefits by introducing and co-spon-  
soring H.R. 4532. We believe that making per-  
manent the SSPA provisions regarding rep-  
resentation will benefit individuals with dis-  
abilities who file claims for benefits.

Very truly yours,  
NANCY G. SHOR,  
*Executive Director.*

In addition, the good news is that the  
bill has no cost. It may even generate a  
little money—some say \$55 million  
over 10 years—from user fees paid by  
representatives who participate.

And so, Mr. Speaker, with that, I  
would ask that everyone support this

legislation. It is, I think, something that will not only benefit people who are engaged in the system, but will cut down in many respects, hopefully, on some of the time people who are sick and disabled have to wait before their cases are adjudicated.

I am joined today by my colleagues, JIM McDERMOTT, Chairman of the Subcommittee on Income Security and Family Support, SAM JOHNSON, Ranking Member of the Subcommittee on Social Security, and JOHN LINDER, Ranking Member of the Subcommittee on Income Security and Family Support, in support of the Social Security Disability Applicants' Access to Professional Representation Act. This important, bipartisan legislation will help individuals with severe disabilities navigate the often lengthy and complex process of applying for Social Security and Supplemental Security Income (SSI) disability benefits.

For the last few years, one of the top priorities of the Ways and Means Subcommittee on Social Security has been helping the hundreds of thousands of Americans who have been waiting years for a hearing on their disability case due to large claims backlogs. We have urged the Social Security Administration (SSA) to make eliminating this backlog a top priority. I particularly want to thank Chairman Obey for his commitment to ensuring that SSA has the resources to address this issue.

By improving access to quality, professional representation for disability applicants, this bill would address another barrier individuals with severe disabilities face when they apply for disability benefits. Increasingly the availability of professional representation can also help speed the disability process, as representatives can help to ensure that SSA has the medical evidence needed to adjudicate cases, avoiding unnecessary delays.

Specifically, this bill would improve access to representation by making permanent a temporary provision to expand access that is due to expire on March 1.

For many years, attorneys who represent Social Security disability claimants have been able to have their fees withheld from the claimant's past-due benefits and paid directly to them by SSA. By providing a way to ensure that attorneys are paid if the claim is successful, this system has helped to ensure that disability applicants—even those who are very low income—have access to professional representation. This representation is particularly important for those applicants who appeal their case by seeking a hearing before an Administrative Law Judge. The fee paid to representatives is limited to 25 percent of the claimant's past-due benefits, subject to a dollar cap, and is only paid if the claimant wins.

In 2004, Congress adopted a provision to temporarily expand this fee-withholding system in two ways: by extending the system to SSI claims, and also by allowing qualified non-attorney representatives to participate. To be a "qualified non-attorney," a representative must pass an examination administered by SSA and meet other criteria designed to protect applicants.

This expansion of the fee-payment system has been very successful, and disability groups and other stakeholders have strongly supported making it permanent. In addition, both SSA and the Government Accountability Office have examined the program to extend fee-withholding to non-attorney representatives and found it was working well.

The Social Security Disability Applicants' Access to Professional Representation Act would ensure that these successful programs continue. The bill has no cost, and even generates some savings—\$55 million over 10 years—due to user fees paid by representatives who participate.

Ensuring that individuals with severe disabilities have the help they need to navigate the complex benefit application process is a goal on which we can all agree. I urge you to support this bipartisan legislation to move us closer to this goal.

I want to thank, again, Mr. JOHNSON. I reserve the balance of my time.

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

Filing for disability benefits isn't easy. There are deadlines to meet, complicated questions to answer, confusing forms to fill out, and doctor reports that need to be sent to Social Security. It's no wonder that close to two-thirds of all those who appear before an administrative law judge need a representative to help them navigate the complex process.

If benefits are paid, most representatives receive a fee of 25 percent of past due benefits, capped at \$6,000.

Since 1967, through a process known as "fee withholding," Social Security has withheld these fees from past due Social Security disability benefits and paid attorney representatives directly. However, non-attorney representatives and attorneys representing those applying for Supplemental Security Income, or SSI, benefits had to collect their fees from their clients.

This changed in 2004 when Congress passed the Social Security Protection Act. This legislation created a 5-year demonstration program that expanded fee withholding to SSI benefits and also allowed qualified non-attorneys to participate in fee withholding from Social Security and SSI benefits. The program expires March 1 of this year.

Both the Social Security Administration and the Government Accountability Office have studied these programs and found that they are working. Well qualified non-attorneys are participating in fee withholding, and those applying for SSI benefits have greater access to representation. Now that the demonstration program is about to expire, advocates for those with disabilities and associations representing attorneys and non-attorneys alike support making these provisions permanent.

I agree. So I was pleased to join with Ways and Means Social Security Subcommittee Chairman JOHN TANNER, one of the great Democrats over there, along with Income Security and Family Support Subcommittee Chairman JIM McDERMOTT and Ranking Member JOHN LINDER, to introduce H.R. 4532, the Social Security Disability Applicants' Access to Professional Representation Act of 2010.

Not only does this bill help those filing for disability benefits; it also saves the taxpayers \$55 million over 10 years, as representatives pay the government

a user fee for processing their payments.

I urge my colleagues to support this legislation. I also hope our subcommittees will do more to make filing for disability benefits easier. The more progress we can make, the more our constituents will avoid losing their hard-earned benefits to representatives in the first place.

I thank Mr. TANNER for helping us with this, and I appreciate your time this morning as well.

Mr. LINDER. Mr. Speaker, the bill before us, the Social Security Disability Applicants' Access to Professional Representation Act of 2010, will make permanent provisions first enacted in a demonstration program included in the Social Security Protection Act of 2004. The provisions allowed attorney fee withholding under Supplemental Security Income, SSI, and qualified non-attorney fee withholding under the Social Security and SSI programs. It also created standards for qualifying non-attorneys for participation in fee withholding.

This action has helped claimants as they work through the often complex and time-consuming disability process. Without action on this bill the provisions will expire on March 1, 2010.

The Social Security Administration, SSA, has received favorable feedback on the program from non-attorney representatives and has received no complaints from claimants. The Government Accountability Office studied the process and has raised no significant concerns.

In addition to support from disability advocates for making the provisions permanent, we received letters urging passage of the legislation from the National Association of Disability Representatives, NADR, and the Consortium for Citizens with Disabilities that Mr. TANNER entered into the RECORD earlier. At this time I would like to insert a letter of support into the RECORD from the National Organization of Social Security Claimants' Representatives.

Because attorneys and non-attorneys who participate in fee withholding are charged a fee by the SSA, preliminary estimates suggest the provisions would reduce the deficit over 10 years by approximately \$55 million.

Join me in supporting the Social Security Disability Applicants' Access to Professional Representation Act of 2010.

NATIONAL ORGANIZATION OF SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES,

Englewood Cliffs, NJ, February 3, 2010.

Hon. JOHN TANNER,  
Chairman, Subcommittee on Social Security,  
Committee on Ways and Means, House of  
Representatives, Washington, DC.

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

Hon. JIM McDERMOTT,  
Chairman, Subcommittee on Income Security  
and Family Support, Committee on Ways  
and Means, House of Representatives,  
Washington, DC.

Hon. JOHN LINDER,  
Ranking Member, Subcommittee on Income Security  
and Family Support, Committee on  
Ways and Means, House of Representatives,  
Washington, DC.

DEAR CHAIRMAN TANNER, CHAIRMAN  
McDERMOTT, RANKING MEMBER JOHNSON, AND

RANKING MEMBER LINDER: We are writing in strong support of H.R. 4532, the "Social Security Disability Applicants' Access to Professional Representation Act of 2010."

Applying for Social Security disability and Supplemental Security Income disability benefits can be a confusing, complicated, and difficult process. While claimants have the right to be represented, it is a hollow right if there is no realistic way to obtain representation.

The Social Security Protection Act of 2004 (SSPA), Pub. L. No. 108-203, included two provisions intended to help claimants obtain representation: (1) the withholding and direct payment of fees in Supplemental Security Income (SSI) cases; and (2) establishing a demonstration project to allow eligible non-attorney representatives the option of withholding and direct payment of fees in both Title II and SSI cases. Under the SSPA, both of these provisions are scheduled to "sunset" after a five-year period, which would be March 1, 2010. Because both projects have been successful, we are writing to support their permanent continuation. H.R. 4532 accomplishes this goal.

Established in 1979, the National Organization of Social Security Claimants' Representatives (NOSSCR) is an association of nearly 4,000 attorneys and paralegals who represent Social Security and SSI claimants seeking to obtain disability and income security benefits. NOSSCR members are committed to providing high quality representation for claimants, to maintaining a system of full and fair adjudication for every claimant, and to advocating for beneficial change in the disability determination and adjudication process.

#### WITHHOLDING AND DIRECT PAYMENT OF FEES IN SSI CASES

Section 302 of the SSPA amended section 1631(d)(2) of the Social Security Act to extend the Title II attorney fee withholding and direct payment procedures to claims under Title XVI of the Act. This provision became effective for SSI fees paid on or after February 28, 2005.

Extending the existing fee withholding and direct payment provisions for Title II cases to Title XVI cases has made a measurable difference in the ability of SSI claimants to obtain representation. SSA's statistics for the hearing level show representation of SSI claimants has increased in every year since the SSPA provision was implemented.

Section 302 includes a sunset provision. Under that provision, the amendments made by section 302 will not apply to claims for benefits with respect to which the claimant and the representative enter into the agreement for representation after February 28, 2010.

Because the SSPA change has increased the opportunities for SSI claimants to obtain representation, we support the provision in H.R. 4532, which makes this provision permanent.

#### NON-ATTORNEY REPRESENTATIVES

Section 303 of the SSPA directs the Commissioner to carry out a five-year nationwide demonstration project to determine the potential results of extending the fee withholding and direct payment procedures that apply to attorneys under Titles II and XVI of the Social Security Act to non-attorney representatives who meet certain minimum prerequisites specified in section 303 and any additional prerequisites that the Commissioner may prescribe.

Under the prerequisites specified in section 303, individuals applying to participate in the demonstration project must have a bachelor's degree or equivalent education, possess liability insurance or equivalent insurance adequate to protect claimants in the event of malpractice by the representative, pass a

criminal background check ensuring fitness to practice before SSA, pass an examination testing knowledge of the relevant provisions of the Act and the most recent developments in Agency and court decisions, and demonstrate ongoing completion of qualified continuing education courses. In addition, the Commissioner has required that individuals applying to participate in the demonstration project show that they have sufficient prior experience representing claimants before SSA.

The five-year demonstration project on direct payment of fees to eligible non-attorneys began on February 28, 2005, and also is scheduled to "sunset" at the end of five years. The demonstration project established by SSPA section 303 applies to claims for benefits with respect to which the agreement for representation is entered into after February 27, 2005 and before March 1, 2010.

We support the provision in H.R. 4532 that makes this provision permanent. We believe that, to date, the demonstration project has been successfully implemented by the contractor engaged by the Social Security Administration, CPS Human Resource Services. By all reports, the contractor has done a good job administering the demonstration project including periodic administration of the examination and ensuring that the other required criteria are met.

We appreciate your support for improving SSA's service for individuals who are applying for benefits by introducing and co-sponsoring H.R. 4532. We believe that making permanent the SSPA provisions regarding representation will benefit individuals with disabilities who file claims for benefits.

Very truly yours,

NANCY G. SHOR,  
*Executive Director.*

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 4532. This legislation will "permanently extend fee withholding procedures which allow Social Security and Supplemental Security Income (SSI) recipients to pay fees to lawyers and representatives in successful applications for benefits directly out of a claimant's benefits, such as SSI disability."

"The legislation would set the criteria for an eligible non-attorney representative, including requirements that a representative have a bachelor's degree, pass an examination, have professional liability insurance, and undergo a criminal background check. In addition, the bill would allow the Social Security Commissioner to assess 'reasonable fees' on recipients participating in the program. The program, which was last extended in 2004, is set to expire on March 1, 2009."

Mr. Speaker, it is known that proper representation for Social Security is a must, in order for individuals to obtain their benefits. In some cases, many may not be able to afford attorneys, hence losing the capability to acquire benefits, which are directly related to the well-being of their life. I am very eager for this legislation to pass, so those citizens, who have desperate needs, would be able to have them met.

By extending and continuing this "fee withholding" procedure, which is the practice of the Social Security Administration, this would open the opportunity for citizens to receive the proper representation. It enables them to pay their representative through the awarded Disability Insurance, DI, or SSI benefits. In addition, the program has also increased annual federal revenue by approximately \$55 million, which is an added windfall.

So in conclusion, I support H.R. 4532 and I encourage my colleagues to follow my lead!

Mr. SAM JOHNSON of Texas. I yield back the balance of my time.

Mr. TANNER. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. TANNER) that the House suspend the rules and pass the bill, H.R. 4532.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### PROVIDING FOR CONSIDERATION OF H.R. 4061, CYBERSECURITY ENHANCEMENT ACT OF 2009

Mr. ARCURI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1051 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 1051

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4061) to advance cybersecurity research, development, and technical standards, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science and Technology now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the